

SEVENTY-THIRD DAY
(Wednesday, May 22, 1991)

The Senate met at 10:30 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Green, Haley, Harris of Tarrant, Harris of Dallas, Johnson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejada, Truan, Turner, Whitmire, Zaffirini.

Absent-excused: Glasgow, Henderson.

A quorum was announced present.

The Reverend Monsignor Edward Jordan, St. Theresa Catholic Church, Austin, offered the invocation as follows:

Almighty God, we praise and thank You for guiding our fathers and mothers to articulate the values and freedoms enshrined in our Constitution. We ask Your grace today to help the members of this Senate and all the men and women who assist them to establish laws and policies for the common good of the people of this State. Give them the courage neither to fear the powerful nor to ignore the weak in the pursuit of justice and fairness. Bless all the citizens of this State with the wisdom and energy to support and challenge their leaders so that through their participation in government they may accept their responsibility as men and women in a free society.

Keep us honest. Keep us humble. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVES OF ABSENCE

Senator Glasgow was granted leave of absence for today on account of important business on motion of Senator Brooks.

Senator Henderson was granted leave of absence for today on account of important business on motion of Senator Harris of Dallas.

CO-SPONSOR OF HOUSE BILL 1985

On motion of Senator Dickson and by unanimous consent, Senator Montford will be shown as Co-sponsor of H.B. 1985.

REPORTS OF STANDING COMMITTEES

Senator Haley submitted the following report for the Committee on Administration:

S.B. 1614
H.C.R. 154
C.S.S.C.R. 152
C.S.H.C.R. 197

Senator Dickson submitted the following report for the Committee on Economic Development:

H.B. 1801
H.B. 1766
H.B. 1175
H.B. 2667
H.B. 546 (Amended)

Senator Brooks submitted the following report for the Committee on Health and Human Services:

H.B. 2224
H.B. 2327

Senator Truan, Acting Chair, submitted the following report for the Committee on Health and Human Services:

H.B. 2053
H.B. 565
S.C.R. 150

Senator Brooks submitted the following report for the Committee on Health and Human Services:

H.B. 662

Senator Truan, Acting Chair, submitted the following report for the Committee on Health and Human Services:

S.C.R. 146

Senator Brooks submitted the following report for the Committee on Health and Human Services:

H.B. 1412
C.S.H.B. 2581
C.S.H.B. 1984

Senator Truan, Acting Chair, submitted the following report for the Committee on Health and Human Services:

C.S.H.B. 1621

Senator Lyon submitted the following report for the Committee on Criminal Justice:

H.B. 1291
H.B. 2426
H.B. 1201
H.B. 1652 (Amended)

Senator Green submitted the following report for the Committee on Jurisprudence:

H.B. 653
H.B. 769 (Amended)
H.B. 784 (Amended)
H.B. 1233
H.B. 1563 (Amended)
H.B. 2059
H.B. 2158

H.B. 2252 (Amended)
H.B. 2769
H.B. 2787
H.B. 2806
H.B. 2812

Senator Montford submitted the following report for the Committee on Finance:

H.B. 201
H.B. 1376
H.B. 1414
H.B. 2578
S.B. 1609
C.S.H.B. 2795
C.S.H.B. 1814
C.S.H.B. 864

Senator Glasgow submitted the following report for the Committee on State Affairs:

C.S.H.B. 1559
C.S.H.B. 2820
H.B. 1400
H.B. 1030
H.B. 1739
H.B. 2625
H.B. 1894
H.B. 799

Senator Whitmire submitted the following report for the Committee on Intergovernmental Relations:

H.B. 84
H.B. 2518
H.B. 851
H.B. 1147
H.B. 914 (Amended)
H.B. 1227
H.B. 1289
H.B. 1328
H.B. 1436
H.B. 1489
H.B. 1900
H.B. 1627
H.B. 2818
H.B. 2862
H.B. 2803
H.B. 1901
H.B. 2138
H.B. 2300
H.B. 2424
H.B. 2561
H.B. 2657

H.B. 2731
H.B. 2863
H.B. 2822 (Amended)
H.B. 2866

Senator Barrientos submitted the following report for the Committee on Nominations:

We, your Committee on Nominations, to which were referred the following appointments, have had same under consideration and report them back to the Senate with the recommendation that they be confirmed.

To be a Member of the TEXAS HIGHER EDUCATION COORDINATING BOARD: Dr. Ray E. Santos, Lubbock County.

To be a Member of the BOARD OF REGENTS, MIDWESTERN STATE UNIVERSITY: Gary H. Shores, Wichita County.

HOUSE BILLS ON FIRST READING

The following bills received from the House were read the first time and referred to the Committee indicated:

H.B. 420, To Committee on Natural Resources.
H.B. 2190, To Committee on Jurisprudence.
H.B. 2235, To Committee on Jurisprudence.
H.B. 2441, To Committee on Health and Human Services.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 270

Senator Haley submitted the following Conference Committee Report:

Austin, Texas
May 20, 1991

Honorable Bob Bullock
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 270** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

HALEY
HARRIS OF TARRANT
GREEN
ELLIS
ARMBRISTER
On the part of the Senate

A. SMITH
ECKELS
COUNTS
JUNELL
BLAIR
On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT
ON SENATE BILL 460**

Senator Tejada submitted the following Conference Committee Report:

Austin, Texas
May 21, 1991

Honorable Bob Bullock
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 460 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

TEJEDA
LUCIO
TURNER
ZAFFIRINI
WHITMIRE

On the part of the Senate

HERNANDEZ
CARONA
BAILEY
YARBROUGH
PIERCE

On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to the use of school crossing guards in municipalities and counties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 116, Revised Statutes, is amended by adding Article 6701d-26 to read as follows:

Art. 6701d-26. SCHOOL CROSSING GUARDS

Sec. 1. DEFINITION. In this article, "school crossing guard" has the meaning assigned by Section 20K, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes).

Sec. 2. PROVISION OF SCHOOL CROSSING GUARDS. (a) Beginning with the 1991-1992 school year, the governing body of each municipality with a population greater than 850,000 according to the most recent federal decennial census shall provide for the use of school crossing guards to facilitate the safe crossing of the streets in the municipality by children going to or leaving from a public, parochial, or private elementary or secondary school.

(b) A municipal governing body may contract with one or more school districts to provide school crossing guards under this article. Under a contract, a school district may provide school crossing guard services to areas of the municipality that are not part of the school district.

Sec. 3. CHILD SAFETY FUND IN CERTAIN MUNICIPALITIES. (a) A child safety fund shall be created in the treasury of each municipality with a population greater than 850,000 according to the most recent federal decennial census. Money in the fund shall consist of court costs collected under Article 102.014, Code of Criminal Procedure, and optional motor vehicle registration fees remitted to the municipality by the county under Section 9b, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-9b, Vernon's Texas Civil Statutes).

(b) Money in the child safety fund created under this section in the treasury of a municipality with a population greater than 850,000 according to the most recent

federal decennial census must be used for purposes of providing school crossing guard services as provided by this article. After the annual expenses of the school crossing guard program are funded from the child safety fund, the remaining money in the fund may be used by the municipality for programs designed to enhance child safety, health, or nutrition, including child abuse intervention and prevention and drug and alcohol abuse prevention.

(c) A municipality contracting with school districts under the provisions of Subsection (b), Section 2 of this article, may deduct from the child safety fund the administrative cost of contracting for school crossing guard services and distributing the funds to the school districts. The administrative costs may not exceed 10 percent of the funds available for school crossing guard services.

Sec. 4. AUDIT. Money collected under this article is subject to audit by the comptroller. Money expended under this article is subject to audit in the same manner as other funds expended by a county or a municipality.

Sec. 5. EQUIPMENT. Each municipality with a population greater than 850,000 according to the most recent federal decennial census shall equip school crossing guards that each employs or has under its jurisdiction with all necessary equipment.

Sec. 6. NUMBER OF SCHOOL CROSSING GUARDS. The governing body of a municipality with a population greater than 850,000 according to the most recent federal decennial census shall determine the number of school crossing guards to be provided under this article. In making that determination, the municipality shall consider the recommendations of schools and traffic safety experts.

Sec. 7. GOVERNMENTAL FUNCTION. The employment, training, equipping, and location of school crossing guards by a political subdivision is a governmental function.

SECTION 2. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.014 to read as follows:

Art. 102.014. COURT COSTS FOR CHILD SAFETY FUND IN MUNICIPALITIES. (a) The governing body of a municipality with a population greater than 850,000 according to the most recent federal decennial census that has adopted an ordinance, regulation, or order regulating the stopping, standing, or parking of vehicles as allowed by Subsection (a), Section 27, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), or Article 6701d-24, Revised Statutes, shall by order assess a court cost on each parking violation not less than \$2 and not to exceed \$5. The court cost under this subsection shall be collected in the same manner that other fines in the case are collected.

(b) The governing body of a municipality with a population less than 850,000 according to the most recent federal decennial census that has adopted an ordinance, regulation, or order regulating the stopping, standing, or parking of vehicles as allowed by Subsection (a), Section 27, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), or Article 6701d-24, Revised Statutes, may by order assess a court cost on each parking violation not to exceed \$5. The additional court cost under this subsection shall be collected in the same manner that other fines in the case are collected.

(c) A person convicted of an offense under the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), when the offense occurs within a school crossing zone as defined by Section 20L of that Act, shall pay as court costs \$20 in addition to other taxable court costs. A person convicted of an offense under Section 104, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), shall pay as court costs \$20 in addition to other taxable court costs. A person convicted of an offense under Section 4.25, Education Code, shall pay as taxable court costs \$20 in addition to other taxable

court costs. The additional court costs under this subsection shall be collected in the same manner that other fines and taxable court costs in the case are collected.

(d) In this article, a person is considered to have been convicted in a case if:

- (1) a sentence is imposed;
- (2) the defendant receives probation or deferred adjudication; or
- (3) the court defers final disposition of the case.

(e) In a municipality with a population greater than 850,000 according to the most recent federal decennial census, the officer collecting the costs in a municipal court case shall deposit money collected under this article in the municipal child safety fund established as required by Article 6701d-26, Revised Statutes.

(f) In a municipality with a population less than 850,000 according to the most recent federal decennial census, the money collected under this article in a municipal court case must be used for a school crossing guard program if the municipality operates one. If the municipality does not operate a school crossing guard program or if the money received from court costs from municipal court cases exceeds the amount necessary to fund the school crossing guard program, the municipality may either deposit the additional money in an interest-bearing account or expend it for programs designed to enhance child safety, health, or nutrition, including child abuse prevention and intervention and drug and alcohol abuse prevention.

(g) Money collected under this article in a justice, county, or district court shall be used to fund school crossing guard programs in the county where they are collected. If the county does not operate a school crossing guard program, the county may:

- (1) remit fee revenues to school districts in its jurisdiction for the purpose of providing school crossing guard services;
- (2) fund programs the county is authorized by law to provide which are designed to enhance child safety, health, or nutrition, including child abuse prevention and intervention and drug and alcohol abuse prevention;
- (3) provide funding to the sheriff's department for school-related activities;
- (4) provide funding to the county juvenile probation department; or
- (5) deposit the money in the general fund of the county.

(h) Each collecting officer shall keep separate records of money collected under this article.

SECTION 3. Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-1 et seq., Vernon's Texas Civil Statutes), is amended by adding Section 9b to read as follows:

Sec. 9b. OPTIONAL REGISTRATION FEE FOR CHILD SAFETY. (a) The commissioners court of a county with a population greater than 1.18 million according to the most recent federal decennial census may by order impose, in addition to the fee imposed by this Act for registering a vehicle in this state, an extra fee in an amount set by the commissioners court not less than 50 cents and not to exceed \$1.50.

(b) The commissioners court of a county with a population less than 1.18 million according to the most recent federal decennial census may by order impose, in addition to the fee imposed by this Act for registering a vehicle in this state, an extra fee in an amount not to exceed \$1.50.

(c) A county imposing a fee under this section may deduct an amount not to exceed 10 percent of the revenues it receives from the fee for administrative costs. The county may further deduct from the fee revenues an amount proportional to the percentage of county residents who live in the unincorporated portion of the county. A county that has a population greater than 1.18 million, according to the most recent federal decennial census, and that, before September 31, 1991, imposes

an additional registration fee under Subsection (a) of this section, may deduct an additional amount, not to exceed 15 percent of the revenues it receives from the fee before January 1, 1992, from which additional amount the county shall reimburse the State Department of Highways and Public Transportation for reasonable costs incurred by the department in assisting the county in assessing and collecting the additional registration fee, and with which the county may defray actual computer and mailing costs incurred by the county in assessing and collecting the additional registration fee.

(d) After the deduction of administrative costs and the portion of fee revenue to which the county is entitled under Subsection (c) of this section, the county shall remit the remainder of the fee to the municipalities in the county according to their population. A municipality with a population greater than 850,000 according to the most recent federal decennial census shall deposit money received from the fee in the child safety fund created in Article 6701d-26, Revised Statutes. A municipality with a population less than 850,000 according to the most recent federal decennial census shall use the fee revenue in accordance with Subsection (f), Article 102.014, Code of Criminal Procedure.

(e) After administrative costs are deducted, the county shall use the revenue from fees under this section for any purpose permitted under Subsection (g), Article 102.014, Code of Criminal Procedure.

(f) A county may impose a fee under this section to take effect beginning the first day of any month. This subsection expires December 31, 1991.

(g) Imposition of the fee may be removed, but the removal may only become effective on the first day of any month. This subsection expires December 31, 1991.

(h) The county tax collector of a county imposing a fee under this section shall collect the extra fee for a vehicle simultaneously with the collection of other fees imposed under this Act for the vehicle. A vehicle that may be registered under this Act without payment of a registration fee may be registered in the county without payment of the extra fee.

SECTION 4. Effective January 1, 1992, Section 9b, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-9b, Vernon's Texas Civil Statutes), as added by Section 3 of this Act, is amended by adding Subsection (i) to read as follows:

(i) A county may impose a fee under this section to take effect beginning January 1 of a year. The county shall adopt the order and notify the department on or before September 10 of the year preceding the year in which the fee takes effect. Imposition of the fee may be removed but the removal may only become effective beginning January 1. A county may remove the fee only by:

(1) rescinding the order imposing the fee; and

(2) notifying the department on or before September 1 of the year preceding the year in which the removal takes effect.

(a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 5. (a) Except as provided by Subsection (b) of this section, this Act takes effect at the earliest date that it may take effect under Article III, Section 35, of the Texas Constitution.

(b) Section 1 and 2 of this Act take effect July 1, 1991.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public

necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

HOUSE BILL 2830 ON SECOND READING

On motion of Senator Rosson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2830, Relating to designating the County Court at Law No. 6 of El Paso County as the Probate Court of El Paso County and to the assignment of certain judges in El Paso County.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2830 ON THIRD READING

Senator Rosson moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 2830** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Glasgow, Henderson.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

HOUSE BILL 2266 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2266, Relating to the requirement that certain delinquent taxpayers establish a tax escrow account at a bank or other financial institution.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2266 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 2266** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Glasgow, Henderson.

The bill was read third time and was passed by a viva voce vote.

(Senator Truan in Chair)

CAPITOL PHYSICIAN

Senator Armbrister was recognized and presented Dr. Harold High of Cuero as the "Doctor for the Day."

The Senate welcomed Dr. High and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

(President in Chair)

**COMMITTEE SUBSTITUTE
HOUSE BILL 191 ON SECOND READING**

On motion of Senator Sims and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 191, Relating to the rate of the sales and use tax a hospital district may impose.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 191 ON THIRD READING**

Senator Sims moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **C.S.H.B. 191** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Glasgow, Henderson.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 507 ON SECOND READING**

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 507, Relating to certain property omitted from an ad valorem tax appraisal roll and to the correction of certain ad valorem tax appraisal rolls.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 507 ON THIRD READING**

Senator Armbrister moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **C.S.H.B. 507** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Glasgow, Henderson.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 725 ON SECOND READING

On motion of Senator Haley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 725, Relating to county and municipal regulation of certain outdoor businesses; providing a civil penalty.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Amend **H.B. 725** as follows:

(1) Strike SECTION 2. Section 216.0035, Local Government Code, page 2, lines 33-47, committee printing.

(2) Strike SECTION 3. Section 216.902 (c), Local Government Code, page 2, lines 48-60, committee printing.

(3) Renumber the remaining sections appropriately.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Haley and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 725 ON THIRD READING

Senator Haley moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 725** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Glasgow, Henderson.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 1.

Nays: Green.

Absent-excused: Glasgow, Henderson.

GUEST PRESENTED

Senator Johnson was recognized and introduced the Chief of Police of Dallas, William Rathburn.

The Senate welcomed Chief Rathburn.

HOUSE BILL 2046 ON SECOND READING

On motion of Senator Turner and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2046, Relating to the taxation of semitrailers.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2046 ON THIRD READING

Senator Turner moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 2046** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Glasgow, Henderson.

The bill was read third time and was passed by a viva voce vote.

(Senator Truan in Chair)

HOUSE BILL 813 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 813, Relating to the use of certain determinations made by the Texas Employment Commission in other actions or proceedings.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 813 ON THIRD READING

Senator Armbrister moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 813** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Glasgow, Henderson.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE SENATE BILL 938 ON THIRD READING

On motion of Senator Green and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its third reading and final passage:

C.S.S.B. 938, Relating to the regulation of the practice of chiropractic.

The bill was read third time.

(President in Chair)

Senator Parker offered the following amendment to the bill:

Amend **C.S.S.B. 938** as follows:

(1) Insert the following new paragraph of the bill to immediately follow Sec. 5b(e), appropriately numbered to read as follows:

(f) Nothing herein shall be construed to require that a person to which this section applies be licensed to practice chiropractic.

(2) Existing sections and paragraphs to remain numbered as provided.

By unanimous consent, the amendment was read and was adopted by a viva voce vote.

On motion of Senator Green and by unanimous consent, the caption was again amended to conform to the body of the bill as amended.

The bill as amended was finally passed by the following vote: Yeas 29, Nays 0.

, Absent-excused: Glasgow, Henderson.

MESSAGE FROM THE HOUSE

House Chamber
May 22, 1991

HONORABLE BOB BULLOCK
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 191, Relating to custodians of public retirement system funds.

S.B. 1262, Relating to the regulation of automatic dial announcing devices; providing criminal and civil penalties.

S.B. 479, Relating to the creation of a statewide media task force on dropout prevention.

S.B. 186, Relating to the determination of the resources of a person obligated to pay child support.

S.B. 1037, Relating to the jurisdiction of a justice court over a child who engages in certain conduct indicating a need for supervision.

S.B. 783, Relating to binding arbitration and court appeal in property tax appraisal disputes.

S.B. 695, Relating to the sale of medicare supplement insurance policies by certain insurance agents and to education requirements concerning those policies; providing a penalty.

S.B. 670, Relating to exemptions from ad valorem taxations for television and radio stations that produce or broadcast public interest programming.

S.B. 1484, Relating to the authority of a hospital district to issue general obligation bonds.

S.B. 1401, Relating to the warning that must be provided to a child by a juvenile court.

S.B. 1342, Relating to the authority of a risk pool established by a political subdivision to obtain reinsurance.

S.B. 1283, Relating to the confidentiality of a disciplinary order affecting the license of a professional.

S.B. 793, Relating to the administration of and benefits payable by certain retirement systems for fire fighters and police officers.

S.B. 951, Relating to promotional appointments made to fill vacancies in certain fire departments.

S.B. 1335, Relating to the guidelines for the support of a child and income withholding in proceedings brought by the attorney general.

H.B. 2227, Relating to the regulation of unclaimed funds retained by sellers of prepaid funeral contracts.

H.B. 423, Relating to investigators, medical examiners, and field agents as peace officers.

H.B. 2147, Relating to Houston County Court at Law provisions.

H.B. 528, Relating to the coordination of state water resources policy and the creation of water resources advisory committees.

H.B. 372, Relating to the application of certain ad valorem tax overpayments and erroneous payments to certain delinquent ad valorem taxes.

H.B. 1715, Relating to a defense to the offense of possession of a gambling device.

H.B. 1648, Relating to the licensing of water well pump installers; providing a penalty.

H.B. 2895, Relating to an economic development fund for the purchase and development of former military bases in this state.

H.B. 2605, Relating to continuation of benefits for the surviving spouse of a deceased state employee.

H.B. 827, Relating to regulation of retail public utilities; notice and hearing on a sale, acquisition, lease, or rental of a water or sewer system; and the supervision, operation, and rates of certain water and sewer utilities and water supply and sewer service corporations.

H.B. 757, Relating to the peace officer college loan program.

H.B. 1688, Relating to child support records and orders.

H.B. 2552, Relating to dates for conducting elections.

H.B. 1744, Relating to the creation, administration, and operation of underground water conservation districts and of management and critical areas.

H.B. 260, Relating to the powers of local authorities to regulate roller skaters on highways or streets.

H.B. 2859, Relating to the jurisdiction of the County Court at Law of Comal County.

H.B. 2658, Relating to the assignment of constitutional county court judges as visiting judges.

H.B. 2459, Relating to Denton County Commissioners Court employing staff attorneys to represent Denton County officials and employees in civil matters.

H.B. 2432, Relating to certain activities of local recording agents.

H.B. 1939, Relating to grounds for a contest of certain elections.

H.B. 1767, Relating to the retention of business records.

H.B. 583, Relating to motor vehicle insurance coverage and liability for motor vehicle accidents.

H.B. 1629, Relating to an exemption from penalties and interest on property taxes for military personnel in the Persian Gulf.

H.B. 42, Relating to the establishment of a method to explore possibilities for compact agreements regarding trade and other matters with the neighboring states of Mexico.

H.B. 2626, Relating to encouraging the use of recycling and recyclable products by state agencies and private enterprise.

H.B. 2269, Relating to the creation of an auctioneer education and recovery fund; providing a penalty.

H.B. 2198, Relating to the creation and administration of a reinvestment zone for tax increment financing.

H.B. 1637, Relating to the date by which a general-purpose committee must file a monthly report under Title 15, Election Code.

H.B. 1756, Relating to the elimination of certain racially offensive names given to geographical features.

H.B. 2197, Relating to tax masters in property tax suits.

H.B. 2472, Relating to the requirements for and issuance of a falconry permit by the Parks and Wildlife Department.

H.B. 1206, Relating to a county's law library fee.

H.B. 476, Relating to the water quality standards and permit conditions established by the Texas Water Commission.

H.B. 2362, Relating to the responsibilities of governing boards.

H.B. 1888, Relating to the penalty for the offense of cruelty to animals.

H.B. 306, Relating to requiring certain persons operating motor vehicles under license restrictions to install in motor vehicles devices that discourage driving while intoxicated.

H.J.R. 114, Proposing a constitutional amendment relating to the amending of a home rule charter by a city under 5,000 population.

H.C.R. 153, Designating the square dance as the official State Folk Dance of Texas.

H.B. 1533, Relating to the authority of the Consumer Credit Commissioner and to the regulation of certain consumer credit practices; providing penalties.

H.B. 598, Relating to the offense of failure to appear at the trial of certain traffic offenses.

H.B. 853, Relating to the continuation and operation of the Texas Structural Pest Control Board.

H.B. 2329, Relating to the definition of subterranean streams and the ownership of groundwater.

H.B. 2898, Relating to workers' compensation insurance rate regulation, the powers and duties of the Texas workers' compensation insurance facility, the abolition of the Texas workers' compensation insurance facility, and the creation of the Texas Workers' Compensation Insurance Fund; creating offenses and providing penalties; authorizing bonds, providing for a maintenance tax surcharge; and making appropriations.

H.B. 1576, Relating to matters of probate.

S.B. 1261, Relating to the exemption of life, health, and accident insurance benefits from seizure under process.

S.B. 324, Relating to the assessment of certain fees by local recording agents.

S.B. 1457, Relating to allowing entities formed as a trust to be eligible members and subscribers of a Cooperative formed under the Cooperative Association Act.

S.B. 663, Relating to the authority of a political subdivision to acquire and convey land for the development of low-income or moderate-income housing.

S.B. 514, Relating to changes in a property tax appraisal roll.

S.B. 972, Relating to the regulation of a medical radiologic technologist.

S.B. 1331, Relating to credit in, and benefits and administration of, programs administered by the Employees Retirement System of Texas for officers and employees of the state. (As substituted and amended)

S.B. 75, Relating to the continuation, composition, and functions of the Texas State Board of Public Accountancy and the regulation of a person who practices public accountancy; creating a scholarship program for certain accounting students to be administered by the Texas Higher Education Coordinating Board; providing a penalty. (As substituted)

S.B. 1462, Relating to credit in, contributions to, and benefits and administration of retirement systems for police officers in certain municipalities. (As substituted)

S.B. 181, Relating to the licensing of marriage and family therapists and the regulation of the practice of marriage and family therapy; providing a criminal penalty; providing an appropriation. (As substituted)

S.B. 1539, Relating to the regulation of the sale and titling of manufactured housing and manufactured housing credit transactions. (As amended)

S.B. 478, Relating to the governing board of the Texas School for the Deaf. (As amended)

S.B. 1267, Relating to the placement of signs on the right-of-way of a public road; providing penalties. (As amended)

S.B. 518, Relating to the authority of the State Highway and Public Transportation Commission to provide specific information logo signs along interstate highways. (As substituted and amended)

S.B. 661, Relating to the coverage of certain dependent children under accident and sickness insurance policies. (As amended)

S.B. 608, Relating to standards for prekindergarten programs and coordination of resources among prekindergarten programs and other child care programs. (As amended)

S.B. 984, Relating to the transfer of certain duties, functions, responsibilities, and authorities from the State Property Tax Board to the comptroller of public accounts. (As amended)

S.B. 1459, Relating to participation and credit in, contributions to, and benefits and administration of the Texas County and District Retirement System. (As amended)

S.B. 1412, Relating to emergency medical care and services and certain hospital district personnel, including peace officers. (As amended)

Respectfully submitted,

BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE BILL 844 ON SECOND READING

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 844, Relating to compensation of executors and administrators.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 844 ON THIRD READING

Senator Sibley moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 844** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Glasgow, Henderson.

The bill was read third time and was passed by a viva voce vote.

HOUSE CONCURRENT RESOLUTION 235

The President laid before the Senate the following resolution:

H.C.R. 235, Instructing the Enrolling and Engrossing Clerk of the House of Representatives to make the necessary correction in **H.B. 2674**.

The resolution was read.

On motion of Senator Turner and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

SENATE BILL 1189 WITH HOUSE AMENDMENTS

Senator Montford called **S.B. 1189** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment - Willy

Amend **S.B. 1189** by adding the following sections between SECTIONS 4 and 5 on page 3, and renumbering accordingly:

SECTION 5. Section 16.343(d), Water Code, is amended to read as follows:

(d) The model rules must prohibit the establishment of residential developments with lots [tracts] of five acres [one acre] or less in the political subdivision without adequate water supply and sewer services. Also, the model rules must prohibit more than one single-family, detached dwelling to be located on each lot [tract].

SECTION 6. Section 16.350, Water Code, is amended to read as follows:

Sec. 16.350. ELIGIBLE COUNTIES AND MUNICIPALITIES TO ADOPT RULES. (a) A [In order to participate in this program, the model rules developed under Section 16.343 of this code must be adopted and enforced by a] county or municipality that applies for or receives funds or financial assistance under Section 15.407 of this code or Subchapter K, Chapter 17, of this code must adopt and enforce the model rules developed under Section 16.343 of this code to be eligible to participate in this program. The county or municipality by order or ordinance shall adopt and enter the model rules in the minutes of a meeting of its governing body and shall publish notice of that action in a newspaper with general circulation

in the county or municipality. A municipality is eligible to participate in this program only if the county in which the project is located adopts and enforces the model rules.

(b) ~~[The county commissioners or the municipal governing body shall adopt the rules in the form of model rules developed under Section 16.343 of this code:~~

~~[(c)] Rules adopted by the commissioners court under this section must apply to all the unincorporated area of the county.~~

(c) ~~[(d)]~~ A municipality may adopt rules relating to water supply and sewer services within its corporate boundaries and extraterritorial jurisdiction that are more strict than those prepared ~~[adopted by the county]~~ under Section 16.343 of this code.

(d) A county or municipality that receives funds or financial assistance under Section 15.407 of this code or Subchapter K, Chapter 17, of this code may grant an exemption for a subdivision from the requirements of the model rules only if the county or municipality supplies the subdivision with water supply and sewer services that meet the standards of the model rules.

SECTION 7. Section 212.0105(a), Local Government Code, is amended to read as follows:

(a) This section applies only to a person who:

(1) is the owner of a tract of land in either:

(A) a county that is contiguous to an international border; or

(B) a county in which a political subdivision has received financial assistance through Subchapter K, Chapter 17, Water Code;

(2) divides the tract in a manner that creates any lots that are intended for residential purposes and are five acres ~~[one acre]~~ or less; and

(3) is required under this subchapter to have a plat prepared for the subdivision.

SECTION 8. Section 232.001, Local Government Code, is amended by adding Subsection (f) to read as follows:

(f) In a county that is an affected county as defined by Section 16.341(1), Water Code, the owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts to lay out suburban lots or building lots of five acres or less must have a plat of the subdivision prepared. A division of a tract under this subsection includes a division regardless of whether the division is made by using a metes and bounds description in a deed of conveyance or in a contract for deed, by using a contract of sale or other executory contract to convey, or by using any other method. A plat required under this subsection is subject to the requirements of this section.

SECTION 9. Section 232.0035(a), Local Government Code, is amended to read as follows:

(a) This section applies only to a person who:

(1) is the owner of a tract of land in either:

(A) a county that is contiguous to an international border; or

(B) a county in which a political subdivision has received financial assistance through Subchapter K, Chapter 17, Water Code;

(2) divides the tract in a manner that creates any lots that are intended for residential purposes and are five acres ~~[one acre]~~ or less; and

(3) is required under this subchapter to have a plat prepared for the subdivision.

Amendment - R. Lewis

Amend the committee amendment to S.B. 1189 as follows:

On page 3, line 10, after the words "building lots" add the words "for resale."

The amendments were read.

On motion of Senator Montford and by unanimous consent, the Senate concurred in the House amendments to S.B. 1189 by a viva voce vote.

(Senator Truan in Chair)

HOUSE BILL 1298 ON SECOND READING

On motion of Senator Sims and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1298, Relating to the appraisal of certain property for ad valorem taxation.

The bill was read second time.

Senator Sims offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 1298** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 23.51(2), Tax Code, is amended to read as follows:

(2) "Agricultural use" includes but is not limited to the following activities: cultivating the soil, producing crops for human food, animal feed, or planting seed or for the production of fibers; further, viticulture, and horticulture; raising or keeping livestock; raising or keeping exotic animals for the production of human food or of fiber, leather, pelts, or other tangible products having a commercial value; and planting cover crops or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure. The term also includes the use of land to produce or harvest logs and posts for the use in constructing or repairing fences, pens, barns, or other agricultural improvements on adjacent qualified open-space land having the same owner and devoted to a different agricultural use. The term also includes the use of land for wildlife management.

SECTION 2. Section 23.51, Tax Code, is amended by adding Subdivision (7) to read as follows:

(7) "Wildlife management" means using land that on January 1, 1992, was appraised as qualified open-space land under this subchapter, or that was eligible to be appraised as qualified open-space land under this subchapter, in at least two of the following ways to propagate a sustaining breeding population of indigenous wild animals to produce a harvestable surplus of those animals for human use, including food, medicine, or recreation:

- (A) habitat control;
- (B) erosion control;
- (C) predator control;
- (D) providing supplemental supplies of water;
- (E) providing supplemental supplies of food;
- (F) providing shelters; and
- (G) making of census counts to determine population.

SECTION 3. Section 1.04(2), Tax Code, is amended to read as follows:

(2) "Real property" means:

- (A) land and all of its constituent parts;
- (B) an improvement;
- (C) a mine or quarry involving active excavation;
- (D) a mineral in place;
- (E) standing timber; or
- (F) an estate or interest, other than a mortgage or deed

of trust creating a lien on property or an interest securing payment or performance of an obligation, in a property enumerated in Paragraphs (A) through (E) of this subdivision.

SECTION 4. This Act takes effect January 1, 1992.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Sims and by unanimous consent, the amendment was withdrawn.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 2

Amend H.B. 1298 by adding the following new SECTION 3 and renumbering subsequent sections accordingly:

"SECTION 3. Section 23.51(3), Tax Code, is amended to read as follows: (3) "Category" means the value classification of land considering the agricultural use to which the land is principally devoted. Categories of land may include but are not limited to irrigated cropland, dry cropland, improved pasture, native pasture, orchard, and waste may be further divided according to soil type, soil capacity, irrigation, general topography, geographical factors, and other factors which influence the productive capacity of the category. The chief appraiser shall obtain information from the Texas Agricultural Extension Service, Soil Conservation Service, and other recognized agricultural sources for the purposes of determining the categories of production existing in the appraisal district."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Sims and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1298 ON THIRD READING

Senator Sims moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that H.B. 1298 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Glasgow, Henderson.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 894 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 894, Relating to eligibility for unemployment compensation benefits after leaving certain employment voluntarily.

The bill was read second time.

Senator Barrientos offered the following committee amendment to the bill:

Amend **H.B. 894** by renumbering SECTION 2 and SECTION 3 as SECTION 3 and SECTION 4, respectively, and inserting the following as SECTION 2:

SECTION 2. Paragraph (A), Subdivision (7), Subsection (c), Section 7, Texas Unemployment Compensation Act (Article 5221b-5, Vernon's Texas Civil Statutes) is amended to read as follows:

(A) With respect to any benefit year, the amount of benefit payments paid to a claimant shall be charged to the account of the claimant's base period employer or employers. When a benefit payment is made to a claimant who has two or more employers in his base period the chargeback to each employer shall be allocated in direct proportion to the percentage of the claimant's total benefit wage credits paid by such employer. This process may be designated as charging benefits to an employer's account, and benefits thus charged may be designated as chargebacks.

The chargebacks of each employer for a given calendar quarter shall be the benefits paid to all of his employees or former employees during such quarter; provided, that the chargebacks of an employer shall not include benefit payments which are based on wage credits of an employee or former employee, if the Commission finds that the employee's last separation from such employer's employment, prior to the benefit year in conjunction with which such base period was established, was (i) a separation required by a Federal or a Texas statute or a Texas municipal ordinance; (ii) a separation for which a disqualification under Subsection (a), (b), (j), or (k) of Section 5 of this Act would have been imposed if such employer's employment of the employee or former employee had been the employee's last work; (iii) a separation with respect to which a disqualification was imposed under Subsection (a), (b), (j), or (k) of Section 5 of this Act; (iv) a separation caused by a medically verifiable illness; [or] (v) a separation based on a natural disaster that results in a disaster declaration by the President of the United States under The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.) if the employee would have been entitled to unemployment assistance benefits under Section 410, The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5177) had the employee not received state unemployment compensation benefits; or (vi) a separation as a result of an individual's resigning partial employment to accept other employment that the individual reasonably believes will increase the individual's weekly wage; and provided further that for the purpose of this paragraph the term "last separation" shall, with respect to an employee whose initial determination disqualified him for benefits under subsection 5(d) of this Act, mean his next later separation from such employer's employment.

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Barrientos and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

(President in Chair)

HOUSE BILL 894 ON THIRD READING

Senator Barrientos moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that H.B. 894 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Glasgow, Henderson.

The bill was read third time and was passed by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 1704 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 1704, Relating to the practice of psychology.

The bill was read second time and was passed to third reading by a viva voce vote.

RECORD OF VOTES

Senators Armbrister and Haley asked to be recorded as voting "Nay" on the passage of the bill to third reading.

PARLIAMENTARIAN ANNOUNCED

The President announced Steve Dial will be acting as Senate Parliamentarian.

HOUSE BILL 734 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 734, Relating to the operation and functions of certain mass transit authorities.

The bill was read second time.

Senator Barrientos offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend H.B. 734 on page 2, line 5, by inserting a new SECTION 2 (and renumbering subsequent Sections) as follows:

"SECTION 2. Section 6, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), is amended by amending Subsection (t) to read as follows:

(t) Except as provided by Subsection (u) of this section, an authority in which the principal city has a population of more than 400,000 [~~1,200,000~~], according to the most recent federal census, may construct, reconstruct, or maintain any highway, road, thoroughfare, or arterial or local street, including any bridge or grade separation, within the boundaries of the authority may undertake traffic

signalization and control improvements of any kind within the boundaries of the authority. An authority may exercise any portion of the powers granted by this subsection through contracts or other agreements with other governmental entities."

The committee amendment was read.

POINT OF ORDER

Senator Ellis raised a Point of Order that Committee Amendment No. 1 was not germane to the bill.

POINT OF ORDER ON GERMANENESS OF COMMITTEE AMENDMENT NO. 1

Senator Ellis has raised a Point of Order that Committee Amendment No. 1 is not germane to H.B. 734 as engrossed. For the following reasons, the Chair has determined that the amendment is not germane.

The caption of H.B. 734 states that it relates to the operation and functions of "certain mass transit authorities." The bill does not expressly state which transit authorities are affected. Its application is defined by reference to certain factors which serve as limitations: specifically, the date of an election to confirm creation of the authority, and the maximum population of the principal city located within the boundaries of the authority.

The bill amends an existing law by both adding entirely new provisions and changing existing provisions. Application of the new provisions is restricted by both an election date and a population limit. The new provisions apply to transit authorities whose principal city has a population of less than 750,000. Six sections of the bill extend provisions of existing law to transit authorities whose principal city has a population of less than 750,000. These provisions currently apply to transit authorities whose principal city has a population of less than 300,000.

Committee Amendment No. 1 changes a population limit in a section of the law that applies to a transit authority whose principal city has a population of 1,200,000 or more. The amendment lowers this limit to 400,000.

No feature of H.B. 734 changes existing law as it affects transit authorities other than those with a principal city having a population of 750,000 or less. The subject of the bill is, therefore, confined to that limited class of transit authorities. The subject of the amendment is limited to a class of transit authorities whose principal city has a population of 400,000 or more. This subject is different from that of the bill.

The Point of Order was ruled well-taken and sustained.

Senator Barrientos offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend H.B. 734 as follows:

(1) Insert a new section after SECTION 4 to read as follows:

SECTION 5. Section 6F, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), is amended by adding Subsection (p) to read as follows:

(p) (1) An authority shall provide transportation services for disabled persons in a unit of election that has withdrawn from the authority. The authority may not charge a fare for these services that is higher than that charged to disabled persons within the authority.

(2) The comptroller shall withhold from the amount of sales and use tax revenue rebated to the unit of election that has withdrawn from the authority the difference

between the actual cost of providing services to the disabled in the unit of election and the fares charged during the period in which the sales and use tax was collected and remit this amount to the authority providing the services.

(3) The authority and the unit of election that has withdrawn shall determine the actual cost of services provided to disabled persons. If the authority and the unit of election are unable to agree on an amount, the comptroller shall determine the actual cost of services provided to disabled persons.

(2) Renumber the remaining sections accordingly.

The committee amendment was read.

Senator Barrientos offered the following amendment to Committee Amendment No. 2:

Floor Amendment No. 1

Amend Committee Amendment No. 2 to **H.B. 734** on line 52 after the word "authority" and before the word "the" add the words, "one half of".

The amendment was read and was adopted by a viva voce vote.

Question recurring on the adoption of Committee Amendment No. 2 as amended, the committee amendment as amended was adopted by a viva voce vote.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 2

Amend **H.B. 734** as follows:

Add a new SECTION 13 to read as follows and renumber the subsequent sections appropriately:

SECTION 13. Section 12C, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), as added by Chapter 618, Acts of the 71st Legislature, Regular Session, 1989, is repealed.

The amendment was read.

POINT OF ORDER

Senator Ellis raised the Point of Order that Floor Amendment No. 2 was not germane to the bill.

**POINT OF ORDER ON GERMANENESS
OF FLOOR AMENDMENT NO. 2**

Senator Ellis has raised a Point of Order that Floor Amendment No. 2 is not germane to **H.B. 734** as engrossed. For the following reasons, the Chair has determined that the amendment is not germane.

The caption of **H.B. 734** states that it relates to the operation and functions of "certain mass transit authorities." The bill does not expressly state which transit authorities are affected. Its application is defined by reference to certain factors which serve as limitations: specifically, the date of an election to confirm creation of the authority, and the maximum population of the principal city located within the boundaries of the authority.

The bill amends an existing law by both adding entirely new provisions and changing existing provisions. Application of the new provisions is restricted by both an election date and a population limit. The new provisions apply to transit authorities whose principal city has a population of less than 750,000. Six sections of the bill extend provisions of existing law to transit authorities whose principal city

has a population of less than 750,000. These provisions currently apply to transit authorities whose principal city has a population of less than 300,000.

No feature of H.B. 734 changes existing law as it affects transit authorities other than those with a principal city having a population of 750,000 or less. The subject of the bill is, therefore, confined to that limited class of transit authorities. The subject of the amendment is limited to a class of transit authorities whose principal city has a population of more than 1,200,000. This subject is different from that of the bill.

The Point of Order was ruled well-taken and sustained.

Senator Whitmire offered the following amendment to the bill:

Floor Amendment No. 3

Amend H.B. 734 as follows:

(1) Between SECTIONS 5 and 6 of the bill, insert the following section, appropriately numbered:

SECTION ____ Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), is amended by adding Section 6J to read as follows:

Sec. 6J. ADOPTION AND IMPLEMENTATION OF RAIL PLAN. (a) In this section, "rail plan" means a design or plan for the use, acquisition, construction, establishment, or improvement of a rail facility, including track, track beds, rolling stock, rail stations, trains, train controls, and other facilities and equipment related to the operation or maintenance of a rail-based transportation system.

(b) This section applies only to an authority with a principal city having a population of more than 1,200,000, according to the most recent federal census.

(c) Before adopting or implementing a rail plan after January 1, 1991, the board of an authority must call an election in the entire area of the authority and submit to the voters of that area the question of whether the authority may adopt and implement the plan, if the board receives a valid petition requesting the election. A petition is valid if:

(1) it states that it is intended to require a referendum on a measure and clearly states the proposition stating the measure to be voted on;

(2) it is signed by registered voters of the authority equal in number to at least five percent of the number of voters of the authority voting in the most recent gubernatorial general election, or 30,000 registered voters, whichever number is less; and

(3) the signatures are obtained not earlier than the 90th day before the date on which the petition is filed with the board.

(d) After receiving a petition, the board shall submit it to the secretary of state for validation. The secretary shall rule on the validity of the petition not later than the 30th day after the date the secretary receives the petition and shall notify the board of the ruling. If the secretary finds the petition valid, or fails to act within the time allowed, the board shall order the referendum to be held on the next available uniform election date prescribed by the Election Code that allows sufficient time to comply with other requirements of law. The authority shall pay the costs of determining the validity of a petition, if any, and of the referendum.

(e) If an authority is required to hold an election under this section, the ballot for the election shall be worded clearly, involve only the rail plan issue, and specify:

(1) that the question involves a rail plan;

(2) the specific route any rail-based transportation system proposed by the plan will take;

- (3) the proposed location of rail stations along the route;
- (4) the parts of the route that will be elevated, at-grade, or tunnelled;
- (5) the total cost of the plan, including capital costs and depreciation;

and

(6) the method of financing to be used for the plan, including any annual subsidy expected to be paid from any source.

(f) An authority that adopts or implements a rail plan after January 1, 1991, that is disapproved at an election under this section may not make a contract after the date of the election to carry out any portion of the rail plan. A contract made before that date by the authority to carry out any portion of a rail plan that is disapproved at an election under this section is void. In a suit to recover damages on the void contract, damages are limited to actual expenses incurred, and lost profits may not be recovered.

(2) Renumber sections of the bill accordingly.

WHITMIRE
GREEN
HENDERSON
BROOKS
BROWN

The amendment was read.

POINT OF ORDER

Senator Ellis raised the Point of Order that Floor Amendment No. 3 was not germane to the bill.

POINT OF ORDER ON GERMANENESS OF FLOOR AMENDMENT NO. 3

Senator Ellis has raised a Point of Order that Floor Amendment No. 3 is not germane to H.B. 734 as engrossed. For the following reasons, the Chair has determined that the amendment is not germane.

The caption of H.B. 734 states that it relates to the operation and functions of "certain mass transit authorities." The bill does not expressly state which transit authorities are affected. Its application is defined by reference to certain factors which serve as limitations: specifically, the date of an election to confirm creation of the authority, and the maximum population of the principal city located within the boundaries of the authority.

The bill amends an existing law by both adding entirely new provisions and changing existing provisions. Application of the new provisions is restricted by both an election date and a population limit. The new provisions apply to transit authorities whose principal city has a population of less than 750,000. Six sections of the bill extend provisions of existing law to transit authorities whose principal city has a population of less than 750,000. These provisions currently apply to transit authorities whose principal city has a population of less than 300,000.

No feature of H.B. 734 changes existing law as it affects transit authorities other than those with a principal city having a population of 750,000 or less. The subject of the bill is, therefore, confined to that limited class of transit authorities. The subject of the amendment is limited to a class of transit authorities whose principal city has a population of more than 1,200,000. This subject is different from that of the bill.

The Point of Order was ruled well-taken and sustained.

On motion of Senator Barrientos and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 734 ON THIRD READING

Senator Barrientos moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that H.B. 734 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Glasgow, Henderson.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

PARLIAMENTARIAN ANNOUNCED

The President announced Robert Johnson is now presiding as Senate Parliamentarian.

HOUSE BILL 1477 ON SECOND READING

On motion of Senator Dickson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1477, Relating to the transfer of certain property to Central Texas University.

The bill was read second time.

Senator Dickson offered the following amendment to the bill:

Amend **H.B. 1477** by inserting the following section, appropriately numbered, immediately before the emergency clause section:

SECTION _____ Section 3(a), Chapter 1255, Acts of the 71st Legislature, Regular Session, 1989, as amended by Section 2, Chapter 37, Acts of the 71st Legislature, 1st Called Session, 1989, is amended to read as follows:

(a) This Act takes effect September 1, 1999 [~~September 1, 1994~~], but only if:

- (1) the American Educational Complex, a public junior college located in the city of Killeen, and American Technological University, a private upper-level institution of higher education located in the city of Killeen, are dissolved or abolished, as appropriate, before that date; and,

- (2) The establishment of Central Texas University is approved by a majority vote of the Texas Higher Education Coordinating Board before September 1, 1999 [~~September 1, 1994~~].

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Dickson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1477 ON THIRD READING

Senator Dickson moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 1477** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Glasgow, Henderson.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

HOUSE BILL 1859 ON SECOND READING

On motion of Senator Bivins and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1859, Relating to appraisal of property exempt from taxation under Article VIII, Section 1-j of the Texas Constitution.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1859 ON THIRD READING

Senator Bivins moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that H.B. 1859 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Glasgow, Henderson.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

HOUSE BILL 2338 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2338, Relating to the payment of wages.

The bill was read second time.

Senator Barrientos offered the following amendment to the bill:

Amend **H.B. 2338** as follows:

(1) After Section 1 (on page 1, between lines 41 and 42), insert new SECTIONS 2 and 3 to read as follows:

SECTION 2. Section 5(a), Texas Minimum Wage Act (Article 515d, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Except as provided in Section 6 of this Act, every employer shall pay to each of the employer's [his] employees not less than \$4.25 [~~\$3.35~~] an hour or the current federal minimum wage (29 U.S.C. Section 206 (a)(1), whichever is greater.

SECTION 3. Section 6, Texas Minimum Wage Act (Article 5159d, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6. MINIMUM WAGE FOR AGRICULTURAL EMPLOYEES. Each person employed in agriculture is entitled to receive for each hour that the person [he] works not less than \$4.25 [~~\$3.35~~] an hour or the current federal minimum wage (29 U.S.C. Section 206(a)(1), whichever is greater.

(2) Renumber the following sections accordingly.

The amendment was read.

POINT OF ORDER

Senator Leedom raised a Point of Order that the amendment was not germane to the bill.

On motion of Senator Barrientos and by unanimous consent, the amendment was withdrawn.

On motion of Senator Leedom and by unanimous consent, the Point of Order was withdrawn.

The bill was passed to third reading by a viva voce vote.

HOUSE BILL 2338 ON THIRD READING

Senator Barrientos moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that H.B. 2338 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Glasgow, Henderson.

The bill was read third time and was passed by a viva voce vote.

(Senator Montford in Chair)

HOUSE BILL 2429 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2429, Relating to the safe operation of vehicles on highways; providing a penalty.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2429 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that H.B. 2429 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Glasgow, Henderson.

The bill was read third time and was passed by a viva voce vote.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Green and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Jurisprudence might consider the following bills tomorrow:

H.B. 431

H.B. 1076

H.B. 1417

H.B. 2719

H.B. 2786

H.B. 2235

H.B. 700

BILL ADDED TO LOCAL AND UNCONTESTED BILLS CALENDAR

On motion of Senator Haley and by unanimous consent, **S.B. 1614** was added to the Local and Uncontested Bills Calendar to be held at 8:00 a.m. Thursday, May 23, 1991.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Truan and by unanimous consent, Senate Rule 11.11 was suspended in order that the Subcommittee on Water might consider **H.B. 1107** today.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Lyon and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Criminal Justice might consider the following bills tomorrow:

H.B. 1548

H.B. 1816

H.B. 413

RECESS

On motion of Senator Brooks, the Senate at 12:11 p.m. took recess until 1:30 p.m. today.

AFTER RECESS

The Senate met at 1:30 p.m. and was called to order by the President.

SENATOR ANNOUNCED PRESENT

Senator Glasgow, who had previously been recorded as "Absent-excused," was announced "Present."

MESSAGE FROM THE HOUSE

House Chamber
May 22, 1991

HONORABLE BOB BULLOCK
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 150, Relating to apportionment of the state into representative districts.

S.B. 1099, Relating to permits for certain facilities regulated by the Texas Air Control Board, the Texas Water Commission, or the Texas Department of Health. (As substituted)

H.C.R. 233, Designating the week of July 21-28, 1991, as Southern States Corrections Week in Texas.

H.C.R. 246, Congratulating R. G. "Gary" Dillard on the occasion of his retirement from Shell Oil Company.

Respectfully submitted,
BETTY MURRAY, Chief Clerk
House of Representatives

PERMISSION TO INTRODUCE BILL

Senator Brooks moved to suspend Article III, Section 5 of the Texas Constitution and Senate Rule 7.07(b) to permit the introduction of the following bill:

S.B. 1618

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Henderson.

SENATE BILL ON FIRST READING

Article III, Section 5 of the Texas Constitution and Senate Rule 7.07(b) having been suspended, the following bill was introduced, read first time and referred to the Committee indicated:

S.B. 1618 by Carriker State Affairs
Subcommittee on Elections and Ethics
Relating to state supervision over voting systems and to the acquisition and use of voting systems; providing civil and criminal penalties.

HOUSE BILL ON FIRST READING

The following bill received from the House was read the first time and referred to the Committee indicated:

H.B. 150, To Committee on State Affairs.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Glasgow and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on State Affairs might consider **H.B. 150** tomorrow.

HOUSE BILL 985 REREFERRED

On motion of Senator Lucio and by unanimous consent, **H.B. 985** was withdrawn from the Committee on State Affairs and rereferred to the Committee on Intergovernmental Relations.

SENATE BILL 942 WITH HOUSE AMENDMENT

Senator Green called **S.B. 942** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment - Cavazos

Amend **S.B. 942** by substituting the following:

**A BILL TO BE ENTITLED
AN ACT**

relating to the applicability of the Texas Motor Vehicle Safety-Responsibility Act and offenses and driver's license suspensions under that Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subdivision 9, Section 1, Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes), is amended to read as follows:

9. "Person"—Every natural person, firm, copartnership, association, [or] corporation, the United States, the State of Texas, or any political subdivision of this state.

SECTION 2. Section 1C(a), Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) A person who operates a motor vehicle or knowingly permits a motor vehicle owned by the person to be operated commits an offense if the person fails ~~[Failure]~~ to maintain financial responsibility ~~[as defined in Section 1(10) of this Act]~~. An offense under this section is a ~~[Class C]~~ misdemeanor~~;~~ punishable by a fine of not less than Seventy-five Dollars (\$75) or more than Two Hundred Dollars (\$200), except that if the person has been previously convicted under this section, an offense under this section is a ~~[Subsequent offenses shall be]~~ Class B misdemeanor ~~[misdemeanors, punishable by a fine of not less than Two Hundred Dollars (\$200)]~~.

SECTION 3. Section 1C, Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes), is amended by adding Subsections (e), (f), and (g) to read as follows:

(e) In this section, "financial responsibility" means having in effect:

(1) an automobile liability insurance policy, insuring against potential losses that may arise out of the operation of the vehicle, in at least the minimum amounts stated in Subdivision 10 of Section 1 of this Act;

(2) a certificate of self-insurance issued in accordance with Section 34 of this Act; or

(3) a financial responsibility certificate issued by the Department and evidencing compliance with Section 24, 25, or 1A(b)(6) of this Act.

(f) A person who fails to furnish evidence of financial responsibility as required by Section 1B of this Act or who furnishes false evidence is presumed to have failed to maintain financial responsibility.

(g) It is an affirmative defense to prosecution under this section that the person:

(1) was operating or permitting another to operate a vehicle exempted by Section 1A of this Act;

(2) produced in court an automobile liability insurance policy, financial responsibility certificate, or certificate of self-insurance previously issued to that person, or covering the vehicle operated, that was valid at the time of the offense; or

(3) was operating a vehicle that was in the possession of the person for the sole purpose of maintenance or repair and was not owned in whole or in part by the person.

SECTION 4. Sections 1D and 1D-2, Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes), are repealed.

SECTION 5. Section 1F(a), Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) A second or subsequent conviction of failure to maintain financial responsibility shall also carry a suspension of driver's license and motor vehicle registration unless the defendant establishes and maintains proof of financial responsibility for two years from the date of conviction. For purposes of this section, a conviction for failure to maintain financial responsibility is a second or subsequent conviction if the person has previously been convicted of the offense, regardless of whether the charging instrument in the prosecution of the second or subsequent offense alleged the existence of a previous conviction. The requirement for filing proof of financial responsibility may be waived if satisfactory evidence is filed with the Department that the party convicted was at the time of arrest covered by a policy of liability insurance or was otherwise exempt as provided in Section 1A(b) of this Act.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public

necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Green moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 942 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Green, Chair; Whitmire, Haley, Harris of Tarrant, Henderson.

HOUSE BILL 779 ON SECOND READING

On motion of Senator Glasgow and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 779, Relating to the amended designation of licensed premises, to the provision of advertising items to a retailer, to the destruction of seized beer, and to certain administrative fees.

The bill was read second time.

Senator Glasgow offered the following amendment to the bill:

Amend **H.B. 779** by striking all below the enacting clause, and substitute, in lieu thereof, the following:

SECTION 1. Section 1.04, Alcoholic Beverage Code, is amended by amending subdivisions (3) and (7) and by adding subdivisions (24) and (25) to read as follows:

(3) "Distilled spirits" means alcohol, spirits of wine, whiskey, rum, brandy, gin, or any liquor produced in whole or in part by the process of distillation, including all dilutions or mixtures of them, and includes spirit coolers that may have an alcoholic content as low as four percent alcohol by volume and that contain plain, sparkling, or carbonated water and may also contain one or more natural or artificial blending or flavoring ingredients.

(7) "Wine and vinous liquor" means the product obtained from the alcoholic fermentation of juice of sound ripe grapes, fruits, berries, or honey, and includes wine coolers.

(24) "Wine cooler" means an alcoholic beverage consisting of vinous liquor plus plain, sparkling, or carbonated water and which may also contain one or more natural or artificial blending or flavoring ingredients. A wine cooler may have an alcohol content as low as one-half of one percent by volume.

(25) "On-premise sale" means a sale for on-premise consumption.

SECTION 2. Chapter 5, Alcoholic Beverage Code, is amended by adding Sec. 5.53 to read as follows:

Sec. 5.53. PROHIBITED CONTRIBUTIONS OR DONATIONS. An association or organization of employees of the commission shall not solicit, accept, or agree to accept any thing of value from a person who holds a license or permit

issued by the commission. The intent of this section is to prohibit the solicitation of holders of licenses and permits by an organization of employees of the commission to donate money to the organization or to purchase membership in such organization, purchase advertising in a journal published by such organization, or purchase publications of such organization.

SECTION 3. Subchapter B, Chapter 11, Alcoholic Beverage Code, is amended by adding Section 11.493 to read as follows:

Sec. 11.493. SUPPLEMENTAL OR AMENDED DESIGNATION OF PREMISES. (a) Subject to the limitations imposed by Section 11.49 of this code on designating a portion of a building or premises where alcoholic beverages may be sold or served, a licensee or permittee may submit an amended or supplemental designation at the time of renewal of the license or permit or at any other time, provided the license or permit is not under suspension at the time the amended or supplemental designation is submitted.

(b) If the amended or supplemental designation is submitted with an application for renewal, there is no charge for processing the document. If the amended or supplemental designation is submitted at any other time, the commission may charge a fee for processing the document.

SECTION 4. Subchapter B, Chapter 11, Alcoholic Beverage Code, is amended by adding Section 11.494 to read as follows:

Sec. 11.494. SUPPLEMENTAL DESIGNATION OF CERTAIN AREAS AUTHORIZED. The holder of a mixed beverage permit covering premises located on or adjacent to an area described in paragraph (1) of Section 251.74 (b) of this code may submit an amended or supplemental designation of premises to the administrator enlarging or altering the premises covered by the permit where alcoholic beverages may be sold to include any structures located on said area. The premises as described in the amended or supplemental designation as submitted shall be the licensed premises of the mixed beverage permittee for all purposes, notwithstanding the provisions of Section 109.57(c) as amended or any other provision of this code or law of this state to the contrary. No provision of a city charter, zoning ordinance or regulation shall alter, limit or affect in any way such mixed beverage permittee's sale of alcoholic beverages on such premises.

SECTION 5. Subchapter C, Chapter 11, Alcoholic Beverage Code, is amended by adding Section 11.612 to read as follows:

Sec. 11.612. CANCELLATION OF PERMIT OR LICENSE IN CERTAIN CITIES. The commission or administrator may cancel an original or renewal wine and beer retailer's permit or retail dealer's on-premises license and may refuse to issue any new alcoholic beverage permit or license for the same premises for one year after the date of cancellation if:

(1) the premises for which the permit or license is issued is located in a city with a population of 1,000,000 or more; and

(2) the chief of police of the city in which the premises is located has submitted a sworn statement to the commission stating that the place or manner in which the permittee or licensee conducts its business endangers the general welfare, health, peace, morals, and safety of the community, and further stating that there is a reasonable likelihood that such conduct would continue at the same location under another licensee or permittee;

(3) the sheriff of the county in which the premises is located has submitted a sworn statement to the commission stating that the place or manner in which the permittee or licensee conducts its business endangers the general welfare, health, peace, morals, and safety of the community, and further stating that there is a reasonable likelihood that such conduct would continue at the same location under another licensee or permittee; and

(4) it is found, after notice and hearing, that the place or manner in which the permittee or licensee conducts its business does in fact endanger the

general welfare, health, peace, morals, and safety of the community and that there is a reasonable likelihood that such conduct would continue at the same location under another licensee or permittee.

SECTION 6. Section 16.01, Alcoholic Beverage Code, is amended to read as follows:

Sec. 16.01. AUTHORIZE ACTIVITIES. (a) The holder of a winery permit may:

(1) manufacture, bottle, label, and package wine containing not more than 24 percent alcohol by volume;

(2) manufacture and import grape brandy for fortifying purposes only and to be used only on his licensed premises;

(3) sell wine in this state to holders of wholesaler's permits, winery permits, and wine bottler's permits;

(4) sell wine to ultimate consumers in unbroken packages for off-premises consumption in an amount not to exceed 25,000 gallons annually;

(5) sell the wine outside this state to qualified persons;

(6) blend wines; and

(7) dispense free wine for consumption on the winery premises.

(b) The holder of a winery permit for a winery located in a "wet area," as that term is defined under Section 251.71 of this code, may manufacture and label for an adult wine in an amount not to exceed 30 gallons annually for the personal use of the adult. Any amount of wine produced under this subsection is included in the annual total amount that may be sold by the holder under Subsection (a)(4) of this section. An adult for whom wine is manufactured and labeled under this subsection is not required to hold a license or permit issued under this code.

SECTION 7. Section 32.11(b), Alcoholic Beverage Code, is amended to read as follows:

(b) The permit fee imposed by Section 32.02 and by Section 33.02 of this code and the provisions of Sections 32.03 and 32.10 of this code requiring regular food service and prohibiting guests from paying in cash do not apply to a fraternal or veterans organization. Those organizations are also exempt from Sections 32.05 and 32.06 of this code, and the members of the organization may use any club funds owned by them jointly, including revenue from the service of alcoholic beverages, to replenish their joint stock of alcoholic beverages.

SECTION 8. Section 101.46, Alcoholic Beverage Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsections (b), [and] (c), and (d) of this section, no person may import, sell, or possess with intent to sell any liquor in a container with a capacity of less than six fluid ounces.

(d) Spirit coolers as described by the definition of "distilled spirits" in Section 1.04 of this code may be sold in containers with a capacity of 355 milliliters as well as in containers with any other capacity authorized by this code for distilled spirits.

SECTION 9. Chapter 101, Alcoholic Beverage Code, is amended by adding Section 101.49 to read as follows:

Sec. 101.49. STATEMENT ON LABEL OR CONTAINER. (a) If 27 U.S.C. Section 215 and 27 C.F.R. Chapter 1, part 16, are in effect and require a warning statement to appear on a carton, label, or container of alcoholic beverage, and the only addition to the carton, label, or container is the federally required statement, no additional or supplemental label approval by the commission is required.

(b) After September 1, 1991, any alcoholic beverage in the possession of a permittee or licensee in this state that does not contain the federally required statement is illicit and subject to seizure by an agent or representative of the commission, unless the possessor immediately causes to be placed on the carton, label, or container a statement as required by 27 U.C.S. Section 215 and 27 C.F.R.

Chapter 1, part 16. The permittee or licensee who owns the alcoholic beverage is liable for the cost of affixing the label, and the cost may not be charged back to the wholesaler or supplier of the alcoholic beverage.

(c) If the label on any alcoholic beverage container includes the federally-required warning statement referred to in Subsection (a) of this section, the permittee or licensee who produced, distributed, served or sold the beverage shall not be liable for any damage to property, personal injury or death resulting from the consumption of such beverage based on the failure on the part of the permittee or licensee to otherwise instruct as to safe use or warn of potential dangers from the consumption of such beverage.

SECTION 10. Section 102.07, Alcoholic Beverage Code, is amended by amending Subsections (a) and (b) and adding Subsection (e) to read as follows:

(a) Except as provided in Subsections [Subsection] (b),(d), and (e) of this section, no person who owns or has an interest in the business of a distiller, brewer, rectifier, wholesaler, class B wholesaler, winery, or wine bottler, nor the agent, servant, or employee of such a person, may:

(1) own or have a direct or indirect interest in the business, premises, equipment, or fixtures of a retailer;

(2) furnish, give, or lend any money, service, or thing of value to a retailer;

(3) guarantee a financial obligation of a retailer;

(4) make or offer to enter an agreement, condition, or system which will in effect amount to the shipment and delivery of alcoholic beverages on consignment;

(5) furnish, give, rent, lend, or sell to a retail dealer any equipment, fixtures, or supplies to be used in selling or dispensing alcoholic beverages;

(6) pay or make an allowance to a retailer for a special advertising or distribution service;

(7) allow an excessive discount to a retailer;

(8) offer a prize, premium, gift, or similar inducement to a retailer or consumer or to the agent, servant, or employee of either.

(b) a permittee covered by Subsection (a) may furnish to a retailer without cost recipes, recipe books, book matches, cocktail napkins, or other advertising items showing the name of the permittee furnishing the items or the brand name of the product advertised if the individual cost of the items does not exceed \$2 [25-cents].

(e) A permittee covered by Subsection (a) of this section may furnish to a retailer without cost shirts, caps, menus, belt buckles, and mirrors to which are affixed in a manner not readily removable the name of the permittee furnishing the items or the brand name of the product advertised.

SECTION 11. Section 102.52, Alcoholic Beverage Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) Notwithstanding the provisions of Sec. 102.51, the holder of a distributor's license who does not have an assigned sales territory from a holder of a manufacturer's or nonresident manufacturer's license for a particular brand of beer may:

(1) purchase that particular brand of beer only from a distributor who does have an assigned sales territory for such brand of beer in the county where the purchasing distributor's residence is located; and

(2) distribute and sell that particular brand of beer to licensed retailers and private clubs only within the sales territory assigned to the distributor from whom the beer was purchased and only within the county where the purchasing distributor's residence is located.

(d) For purposes of product quality control, the holder of a distributor's license who chooses to sell a particular brand of beer to a distributor as authorized in

Subsection (c) of this section may impose upon the purchasing distributor requirements relating to product quality assurance, including but not limited to limitations on quantity of beer purchased, and other requirements designed to assure, to the extent possible, the quality, purity, and freshness of beer ultimately offered for resale by a licensed retailer to the consumer.

SECTION 12. Chapter 102, Alcoholic Beverage Code, is amended by amending Section 102.81 to read as follows:

Sec. 102.81. ~~[ALE AND MALT]~~ LIQUOR. This subchapter and Subchapter C of this chapter apply to agreements concerning ~~[ale and malt]~~ liquor in the same manner as they apply to agreements concerning beer, and each particular class of permittee dealing with ~~[ale and malt]~~ liquor is subject to those provisions that apply to functionally corresponding licenses within the beer industry.

SECTION 13. Chapter 102, Alcoholic Beverage Code, is amended by adding Section 102.82 to read as follows:

Sec. 102.82. LIQUOR CONTRACTS. (a) Every holder of a wholesaler's, general class B wholesaler's or local class B wholesaler's permit purchasing liquor from a permittee who produces or who is the primary American source of such liquor shall be deemed as a matter of law to be operating under enforceable agreements with each and every supplier of the brands which the wholesaler permittee was handling on May 1, 1991. Such agreements shall, as a matter of law, be deemed to be controlling as to the brand name of the product regardless of any change which might have occurred in the ownership of the entity marketing the brand.

(b) Every wholesaler referred to in Subsection (a) of this section shall further be deemed as a matter of law to be operating under a territorial agreement with each and every supplier of the brands which the wholesaler permittee was handling on May 1, 1991. Such territorial agreements shall, as a matter of law, be construed as granting to the wholesaler permittee the authority to sell in any area in the state in which the brand was actually sold by the wholesaler permittee within three months prior to May 1, 1991.

Section 14. Subchapter D, Chapter 102, Alcoholic Beverage Code, is amended by adding Section 102.83 to read as follows:

Sec. 102.83. A permittee or licensee, named as a party in an action for property damage, personal injury or death arising out of the sale, consumption or use of an alcoholic beverage, regardless of the theory of the suit, that did not manufacture, produce, alter or modify the alcoholic beverage made the subject of the suit is entitled to indemnity from the permittee or licensee who manufactured or produced or who is the primary American source of such alcoholic beverage. The indemnity shall include all payments, costs and expenses, including reasonable attorney's fees, incurred by reason of or in defending such action or in seeking the indemnity.

SECTION 15. Section 103.08, Alcoholic Beverage Code, is amended by amending Subsection (b), adding a new Subsection 9(c), and relettering existing Subsections (c) and (d) to read as follows:

(b) On notification that beer has been seized, the commission shall promptly notify a holder of a general, local, or branch distributor's license who handles the brand of beer seized and who operates in the county in which it was seized. If the beer was seized in a dry area, the commission shall notify either the general, local, or branch distributor who handles the brand operating nearest the area or the manufacturer brewing the beer. ~~[The commission and the distributor or manufacturer shall jointly determine whether the beer is in a salable condition.]~~

(c) The commission shall determine from the manufacturer or a distributor of that particular brand of beer whether the seized beer is in a salable condition. If the

manufacturer or a distributor of that particular brand of beer certifies to the commission that the beer is not, under the manufacturer's standards of quality control, in a salable condition, the commission shall destroy the beer. The beer may not be resold unless the manufacturer or a distributor of that particular brand of beer certifies to the commission that the beer is, under the manufacturer's standards of quality control, in a salable condition.

(d) If the beer is determined not to be in a salable condition, the commission shall immediately destroy it. If it is determined to be in a salable condition, it shall be offered for sale to the distributor or manufacturer. If offered to a distributor, the beer shall be sold at the distributor's cost price less any state taxes which have been paid on the beer, F.O.B. the distributor's place of business. If the beer is offered to a manufacturer, it shall be sold at the manufacturer's cost price to its nearest distributor, less any state taxes which have been paid on the beer, F.O.B., the nearest distributor's place of business. In either case, the storage or warehousing charges necessarily incurred as a result of the seizure shall be added to the cost price.

(e) [(†)] If the distributor or manufacturer does not exercise the right to purchase salable beer or to purchase returnable bottles, containers, or packages at their deposit price within 10 days, the commission shall sell the beer, bottles, container, or packages at public or private sale as provided in this chapter.

SECTION 16. Sections 107.07(a) and (b), Alcoholic Beverage Code, are amended to read as follows:

(a) A Texas resident may import not more than one quart of liquor for his own personal use without being required to hold a permit. A Texas resident may import for his own personal use not more than three gallons of wine without being required to hold a permit. A nonresident of Texas may import not more than a gallon of liquor for his own personal use without being required to hold a permit. A person importing liquor into the state under this subsection must pay the state tax on liquor and an administrative fee of 75 [50] cents and must affix the required tax stamps. No minor and no intoxicated person may import any liquor into the state. A person importing wine or liquor under this subsection must personally accompany the wine or liquor as it enters the state. A person may not avail himself of the exemptions set forth in this subsection more than once every thirty days.

(b) A person may import beer into this state for his own personal use without being required to hold a license, but may not import more than 24 twelve-ounce bottles or an equivalent quantity in any one thirty-day period. He must pay the state tax on beer and an administrative fee of 75 [50] cents.

SECTION 17. Chapter 107, Alcoholic Beverage Code, is amended by adding Section 107.09 to read as follows:

Sec. 107.09. SINGLE INVOICE AUTHORIZED. If the holder of a distributor's license also holds any class of wholesaler's permit, the written statement or invoice required to evidence the sale of beer or liquor may be on the same business form designed to reflect the sale of both liquor and beer, provided that all information required by this code to be shown on an invoice is reflected thereon and records are otherwise maintained as required by this code.

SECTION 18. Chapter 107, Alcoholic Beverage Code, is amended by adding Section 107.011 to read as follows:

Sec. 107.011. TRANSPORTATION OF WINE COOLERS. A holder of a wholesaler's permit, general class B wholesaler's permit, or local class B wholesaler's permit may transport and sell wine coolers without a prior order according to the provisions of this code and rules of the commission applicable to the transportation and sale of beer by a distributor's licensee.

Section 19. Section 109.57 (c), Alcoholic Beverage Code Subsection (c) is amended to read as follows:

(c) Neither this section nor Section 1.06 affects the validity or invalidity of a zoning regulation that was formally enacted prior to June 11, 1987, that is otherwise

valid, or any amendments thereto enacted after June 11, 1987, if such amendments lessen the restrictions on the licensee or permittee or do not impose additional restrictions on the licensee or permittee. For purposes of this subsection, "zoning regulation" means any charter provision, rule, regulation or other enactment governing the location and use of buildings, other structures, and land.
[This section does not affect the validity or invalidity of a regulation, charter, or ordinance that was finally enacted before the effective date of the Act adding this section to this code and that is otherwise valid.]

Section 20. Subchapter D, Chapter 109, is amended by adding Section 109.58 to read as follows:

Sec. 109.58 NON-APPLICABILITY OF OTHER PROVISIONS. The provisions of Section 37A(g) of the Probate Code shall not apply to or authorize ownership by any person of an interest in the permit, license, business, assets or corporate stock of any holder of a permit or license issued under this code contrary to the provisions of this code.

SECTION 21. Section 204.01, Alcoholic Beverage Code, is amended by adding Subsection (j) to read as follows:

(j) The administrator may waive the bond requirement imposed under this section if a permittee or licensee is not required to pay a tax under this code. If a permittee or licensee who is not required to furnish a bond under this subsection violates a provision of this code or a rule of the commission, the administrator may require the permittee or licensee to furnish a bond, certificate of deposit, or letter of credit in an amount equal to the enforcement costs incurred by the commission in relation to the violation.

SECTION 22. Chapter 28, Alcoholic Beverage Code, is amended by adding Section 28.15 to read as follows:

Sec. 28.15. PREMISES IN A FOOD COURT. (a) Notwithstanding any provision of this code to the contrary, the premises of a mixed beverage permittee who leases space in a food court includes a designated area within the seating area that the permittee shares with the other lessees that occupy the food court.

(b) For the purposes of this section, "food court" has the meaning assigned by Section 25.12(b) of this code.

SECTION 23. Section 106.14, Alcoholic Beverage Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) The commission may approve under this section a seller training program conducted by a hotel management company or a hotel operating company for the employees of five or more hotels operated or managed by the company if:

(1) the seller training program is administered through the corporate offices of the company; and

(2) the hotels employ a total of at least 200 persons at one time during the license or permit year who sell, serve, or prepare alcoholic beverages.

(e) The commission by rule shall establish procedures for certifying a student who has successfully completed an approved seller training program. The commission shall charge an application fee of \$3 for each student to pay for the costs of administering the certifications. A training entity or school shall apply for certification of each student in a class who has successfully completed an approved program and shall pay the application fees due for some or all of the certifications with one or more cashier's checks, certified checks, United States postal money orders, or checks drawn on the account of the training entity or school.

SECTION 24. Subchapter D, Chapter 109, Alcoholic Beverage Code, is amended by adding Section 109.59 to read as follows:

Sec. 109.59. ASSIGNMENT OF CERTAIN TERRITORY TO DISTRIBUTOR. If a dry area adjacent to or in close proximity to a territory which has been assigned by a manufacturer or nonresident manufacturer to a distributor

for a brand of beer becomes wet as to the sale of beer and that distributor has lawfully provided services relating to that brand to one or more private club permittees in that area for a period of not less than five years prior to the date on which the area becomes wet as to the sale of beer, then the holder of the manufacturer's or nonresident manufacturer's license of said brand of beer shall include the area in the territory assigned to that distributor under Section 102.51 of this code.

SECTION 25. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Barrientos asked to be recorded as voting "Present-not voting" on the adoption of the amendment.

On motion of Senator Glasgow and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

RECORD OF VOTE

Senator Barrientos asked to be recorded as voting "Present-not voting" on the passage of the bill to third reading.

HOUSE BILL 779 ON THIRD READING

Senator Glasgow moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that H.B. 779 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0, Present-not voting 1.

Present-not voting: Barrientos.

Absent-excused: Henderson.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0, Present-not voting 1. (Same as previous roll call)

COMMITTEE SUBSTITUTE SENATE BILL 295 ON THIRD READING

Senator Johnson moved that the regular order of business be suspended and that C.S.S.B. 295 be placed on its third reading and final passage.

C.S.S.B. 295, Relating to discrimination by certain accommodations and associations; imposing civil penalties.

The motion prevailed by the following vote: Yeas 23, Nays 6.

Yeas: Armbrister, Barrientos, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Johnson, Lucio, Lyon, Moncrief, Montford, Parker, Rosson, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Bivins, Harris of Tarrant, Harris of Dallas, Leedom, Ratliff, Sibley.

Absent: Krier.

Absent-excused: Henderson.

The bill was read third time and was passed by a viva voce vote.

RECORD OF VOTES

Senators Bivins, Harris of Dallas, Harris of Tarrant, Leedom, Ratliff and Sibley asked to be recorded as voting "Nay" on the final passage of the bill.

HOUSE BILL 1838 ON SECOND READING

On motion of Senator Lyon and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1838, Relating to the requirements for an expunction order.

The bill was read second time.

Senator Parker offered the following amendment to the bill:

Amend **H.B. 1838** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Article 55.01, Code of Criminal Procedure, is amended to read as follows:

Art. 55.01. RIGHT TO EXPUNCTION. A person who has been arrested for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if ~~[each of the following conditions exist]:~~

(1) ~~an indictment, complaint, or information charging him with commission of an offense [a felony] has not been presented against him for an offense arising out of the transaction for which he was arrested before the second anniversary of the date of the arrest or, if an indictment, complaint, or information charging him with commission of an offense [a felony] was presented, it has been dismissed [and the court finds that it was dismissed because the presentment had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense or because it was void]; or~~

(2) ~~he has been acquitted at the trial of the offense for which the arrest was made [released and the charge, if any, has not resulted in a final conviction and; is no longer pending and there was no court ordered probation under Article 42.12, Code of Criminal Procedure, nor a conditional discharge under Section 4.12 of the Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes); and~~

~~[(3) he has not been convicted of a felony in the five years preceding the date of the arrest].~~

SECTION 2. Article 55.02, Code of Criminal Procedure, is amended to read as follows:

Art. 55.02. PROCEDURE FOR EXPUNCTION

Sec. 1. (a) ~~The trial court shall enter an order of expunction for a person entitled to expunction because the person was acquitted or the offense was dismissed or the indictment quashed or set aside [A person who is entitled to expunction of records and files under this chapter may file an ex parte petition for expunction in a district court for the county in which he was arrested].~~

~~(b) The attorney representing the state whose office would have prosecuted the offense shall bring a motion for expunction for a person who was arrested but against whom no indictment, complaint, or information was filed before the second anniversary of the date of the arrest, except that a motion for expunction for a~~

person who is a participant in a pretrial intervention program authorized by Section 11, Article 42.131 of this code may not be filed before the third anniversary of the date on which the indictment or information charging the offense was dismissed. The motion [petition] must be verified and shall include the following or an explanation for why one or more of the following is not included:

- (1) the person's [petitioner's]:
 - (A) full name;
 - (B) sex;
 - (C) race;
 - (D) date of birth;
 - (E) driver's license number;
 - (F) social security number; and
 - (G) address at the time of the arrest;
- (2) the offense charged against the person [petitioner];
- (3) the date the offense charged against the person [petitioner] was alleged to have been committed;
- (4) the date the person [petitioner] was arrested;
- (5) the name of the county where the person [petitioner] was arrested and if the arrest occurred in a municipality, the name of the municipality;
- (6) the name of the agency that arrested the person [petitioner];
- (7) the case number and court of offense; and
- (8) a list of all law enforcement agencies, jails or other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, and other officials or agencies or other entities of this state or of any political subdivision of this state and of all central federal depositories of criminal records that the person [petitioner] has reason to believe have records or files that are subject to expunction.

Sec. 2. The court shall set a hearing on the matter no sooner than thirty days from the date of acquittal, dismissal, or filing of the motion by the attorney representing the state. If it is determined at the hearing that the person has a right to expunction under Article 55.01 of this code, the trial court shall timely enter an order of expunction for the person. The court shall include in the order a listing of each official, agency, or other entity of this state or a political subdivision of this state that there is reason to believe has any records or files that are subject to the order [filing of the petition and shall give reasonable notice of the hearing to each official or agency or other entity named in the petition by certified mail, return receipt requested, and such entity may be represented by the attorney responsible for providing such agency with legal representation in other matters].

Sec. 3. (a) ~~[If the court finds that the petitioner is entitled to expunction of any records and files that are the subject of the petition, it shall enter an order directing expunction and directing any state agency that sent information concerning the arrest to a central federal depository to request such depository to return all records and files subject to the order of expunction. Any petitioner or agency protesting the expunction may appeal the court's decision in the same manner as in other civil cases.]~~ When the order of expunction is final, the clerk of the court shall send a certified copy of the order by certified mail, return receipt requested, to the Department of Public Safety and to each official or agency or other entity of this state or of any political subdivision of this state named in the ~~[petition that there is reason to believe has any records or files that are subject to the]~~ order. The Department of Public Safety shall send a copy by certified mail, return receipt requested, of the order to any central federal depository of criminal records that there is reason to believe has any of the records, together with an explanation of the effect of the order and a request that the records in possession of the depository, including any information with respect to the proceeding under this article, be destroyed or returned to the court.

(b) All returned receipts received by the clerk from notices of the hearing and copies of the order shall be maintained in the file on the proceedings under this chapter.

Sec. 4. (a) If the state establishes that the person [petitioner] is still subject to conviction for an offense arising out of the transaction for which he was arrested because the statute of limitations has not run and there is reasonable cause to believe that the state may proceed against him for the offense, the court may provide in its order that the law enforcement agency and the prosecuting attorney responsible for investigating the offense may retain any records and files that are necessary to the investigation.

(b) Unless the person [petitioner] is again arrested for or charged with an offense arising out of the transaction for which he was arrested, the provisions of Articles 55.03 and 55.04 of this code apply to files and records retained under this section.

Sec. 5. (a) On receipt of the order, each official or agency or other entity named in the order shall:

(1) return all records and files that are subject to the expunction order to the court or, if removal is impracticable, obliterate all portions of the record or file that identify the person [petitioner] and notify the court of its action; and

(2) delete from its public records all index references to the records and files that are subject to the expunction order.

(b) The court may give the person [petitioner] all records and files returned to it pursuant to its order.

(c) If an order of expunction is issued under this article, the court records concerning expunction proceedings are not open for inspection by anyone except the person [petitioner] unless the order permits retention of a record under Section 4 of this article and the person [petitioner] is again arrested for or charged with an offense arising out of the transaction for which he was arrested. The clerk of the court issuing the order shall obliterate all public references to the proceeding and maintain the files or other records in an area not open to inspection.

(d) The clerk of the court shall destroy all the files or other records maintained under Subsection (c) of this section on the first anniversary of the date the order of expunction is issued unless the records or files were released under Subsection (b) of this section.

(e) The clerk shall certify to the court the destruction of files or other records under Subsection (d) of this section.

SECTION 3. Article 55.03, Code of Criminal Procedure, is amended to read as follows:

Art. 55.03. EFFECT OF EXPUNCTION. After entry of an expunction order:

(1) the release, dissemination, or use of the expunged records and files for any purpose is prohibited;

(2) except as provided in Subdivision (3) of this article, the person arrested [petitioner] may deny the occurrence of the arrest and the existence of the expunction order; and

(3) the person arrested [petitioner] or any other person, when questioned under oath in a criminal proceeding about an arrest for which the records have been expunged, may state only that the matter in question has been expunged.

SECTION 4. Articles 55.05 and 102.006, Code of Criminal Procedure, are repealed.

SECTION 5. (a) This Act takes effect September 1, 1991, and applies only to the expunction of arrest records related to:

(1) a criminal offense for which an acquittal occurred on or after that date;

(2) a charge for an offense that was dismissed on or after that date; or

(3) an arrest made on or after that date.

(b) Expiration for an acquittal, dismissal, or arrest that occurred before the effective date of this Act is governed by the law in effect at that time, and the former law is continued in effect for this purpose.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Lyon and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1838 ON THIRD READING

Senator Lyon moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 1838** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Henderson.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 1973 ON SECOND READING

On motion of Senator Turner and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1973, Relating to institutional income, expenditures, and obligations of public institutions of higher education.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1973 ON THIRD READING

Senator Turner moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 1973** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Henderson.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE

HOUSE BILL 2411 ON SECOND READING

On motion of Senator Lyon and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 2411, Relating to county enforcement in unincorporated areas of public health laws.

The bill was read second time.

Senator Green offered the following amendment to the bill:

Amend C.S.H.B. 2411 as follows:

On page 1, line 28 after "county" insert "with a population of 2 million or less,"

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Lyon and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 2411 ON THIRD READING

Senator Lyon moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.H.B. 2411 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Henderson.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2482 ON SECOND READING

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2482, Relating to contributions for certain members of the Teacher Retirement System of Texas.

The bill was read second time.

Senator Parker offered the following committee amendment to the bill:

Amend **H.B. 2482** by inserting the following new section and renumbering accordingly:

SECTION _____. Section 825.405(b), Government Code, is amended to read as follows:

(b) For purposes of this section, the statutory minimum salary is the salary provided by Section 16.056, Education Code, multiplied by the cost of education adjustment [~~price differential index~~] applicable under Section 16.102, Education Code, to the district in which the member is employed, plus any career ladder supplement under Section 16.057, Education Code.

The committee amendment was read and was adopted by a viva voce vote.

Senator Parker offered the following amendment to the bill:

Amend **H.B. 2482** by striking SECTIONS 3 and 4 and substituting the following:

SECTION 3. Section 830.005, Government Code, is amended to read as follows:

Sec. 830.005. **EXEMPTION FROM TAXES.** If qualified to do business in this state, a life insurance or annuity company is exempt from the payment of

franchise or premium taxes on annuity or group insurance policies issued under a benefit program authorized and at least partly paid for by the governing board of an institution of higher education or the Central Education Agency.

SECTION 4. Section 830.101(a), Government Code, is amended to read as follows:

(a) The governing board of each institution of higher education shall provide an opportunity to participate in the optional retirement program to all faculty members in the component institutions governed by the board. The State Board of Education shall provide an opportunity to participate in the optional retirement program to the commissioner of education.

SECTION 5. Section 830.103, Government Code, is amended to read as follows:

Sec. 830.103. EFFECT OF TRANSFERS AND CHANGES IN EMPLOYMENT STATUS. (a) An institution of higher education shall accept the transfer of a participant's optional retirement program from another institution of higher education or from the Central Education Agency. The Central Education Agency shall accept the transfer of a participant's optional retirement program from an institution of higher education if the participant becomes commissioner of education.

(b) If, after participating in the optional retirement program for at least one year, a person becomes employed in an institution of higher education in a position normally covered by the retirement system, the person shall continue participation in the optional retirement program if the person has had no intervening employment in the public schools other than as commissioner of education or a position in an institution of higher education.

SECTION 6. Sections 830.202(b), (c), and (d), Government Code, are amended to read as follows:

(b) The comptroller of public accounts shall pay the state's contributions to the optional retirement program to the appropriate institutions of higher education and, if applicable, to the Central Education Agency.

(c) The disbursing officer of an institution of higher education and, if applicable, of the Central Education Agency shall pay the contributions collected under this section to the company providing the optional retirement program for that institution.

(d) An institution of higher education and, if applicable, the Central Education Agency shall certify to the comptroller, in the manner provided for estimate of state contributions to the retirement system, estimates of funds required for the payments by the state under this section.

SECTION 7. Section 830.204(a), Government Code, is amended to read as follows:

(a) A participant in the optional retirement program and either the employing institution of higher education or, as applicable, the Central Education Agency, acting through its governing board, shall execute an agreement under which the salary of the participant is reduced by the amount of the contribution required under Section 830.201 and under which the employer or agency contributes an amount equal to the reduction for any type of investment authorized in Section 403(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 403) or toward the purchase of an annuity under the program.

SECTION 8. Section 830.205, Government Code, is amended to read as follows:

Sec. 830.205. BENEFITS. Benefits in the optional retirement program vest in a participant after one year of participation in one or more optional retirement plans operating under this chapter ~~[in one or more institutions of higher education]~~.

SECTION 9. Sections 1 and 2 of this Act take effect September 1, 1991, and apply only to contributions made on or after that date. All other sections take effect July 1, 1991.

SECTION 10. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Parker and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 2482 ON THIRD READING

Senator Parker moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that H.B. 2482 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Henderson.

The bill was read third time and was passed by a viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 891 ON SECOND READING

Senator Johnson asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 891, Relating to historically underutilized businesses; providing penalties.

There was objection.

Senator Johnson then moved to suspend the regular order of business and take up **C.S.S.B. 891** for consideration at this time.

The motion prevailed by the following vote: Yeas 21, Nays 8.

Yeas: Barrientos, Brooks, Carriker, Dickson, Ellis, Glasgow, Green, Johnson, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Rosson, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Armbrister, Bivins, Brown, Haley, Harris of Tarrant, Krier, Ratliff, Sibley.

Absent: Harris of Dallas.

Absent-excused: Henderson.

The bill was read second time and was passed to engrossment by a viva voce vote.

MOTION TO PLACE COMMITTEE SUBSTITUTE SENATE BILL 891 ON THIRD READING

Senator Johnson moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **C.S.S.B. 891** be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 22, Nays 6. (Not receiving four-fifths vote of Members present)

Yeas: Barrientos, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Johnson, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Rosson, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Armbrister, Bivins, Harris of Tarrant, Krier, Ratliff, Sibley.

Absent: Haley, Harris of Dallas.

Absent-excused: Henderson.

(Senator Brown in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 284 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 284, Relating to the continuation and operation of the Texas Funeral Service Commission.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 284 ON THIRD READING**

Senator Barrientos moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **C.S.S.B. 284** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Henderson.

The bill was read third time and was passed by a viva voce vote.

PARLIAMENTARIAN ANNOUNCED

The Presiding Officer announced Steve Dial will be acting as Senate Parliamentarian.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1258 ON SECOND READING**

On motion of Senator Dickson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 1258, Relating to the authority of the Consumer Credit Commissioner, the regulation of certain consumer credit practices, and the regulation of pawnships; providing civil and administrative penalties.

The bill was read second time.

Senator Dickson offered the following amendment to the bill:

Amend **C.S.H.B. 1258** as follows:

1) at page 8, line 47 by striking the word "eight" and inserting "two and one half"

2) at page 8, line 50, by striking the word "five" and inserting "one"

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Dickson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1258 ON THIRD READING**

Senator Dickson moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.H.B. 1258 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Henderson.

The bill was read third time and was passed by a viva voce vote.

PARLIAMENTARIAN ANNOUNCED

The Presiding Officer announced Robert Johnson is now presiding as Senate Parliamentarian.

SENATE BILL 47 ON SECOND READING

On motion of Senator Dickson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 47, Relating to the term intoxicated as used in defining the offense of driving while intoxicated.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 47 ON THIRD READING

Senator Dickson moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **S.B. 47** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Henderson.

The bill was read third time and was passed by a viva voce vote.

SENATE BILL 1040 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1040, Relating to contracting with attorneys for the collection of property taxes.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1040 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **S.B. 1040** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Henderson.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1051 ON SECOND READING**

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1051, Relating to the registration and exemption from the sales and use tax of certain vehicles owned or leased by certain emergency medical services providers.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1051 ON THIRD READING**

Senator Lucio moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1051** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Henderson.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**MOTION TO PLACE
SENATE BILL 1086 ON SECOND READING**

Senator Ellis moved to suspend the regular order of business to consider **S.B. 1086** on its second reading and passage to engrossment.

S.B. 1086, Relating to the powers and duties of the Texas Rehabilitation Commission.

On motion of Senator Ellis and by unanimous consent, the motion to suspend the regular order of business was withdrawn.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1492 ON THIRD READING**

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its third reading and final passage:

C.S.H.B. 1492, Relating to death benefits payable to the survivors of certain public servants and to the imposition of a cost of court on certain criminal convictions.

The bill was read third time.

Senator Montford offered the following amendment to the bill:

Amend C.S.H.B. 1492 in SECTION 10(a) (Committee Printing page 7, line 19) by inserting a new sentence after the last sentence of that subsection to read as follows:

"Of the balance of the fees assessed as cost of court on the convictions of certain criminal offenses resulting from changes in law made by this Act that remain after the required deposit in the state treasury to the credit of an account in the general revenue fund, as specified by SECTION 6 of this Act (Article 6228f, Section 5, Vernon's Texas Civil Statutes), a priority shall be given to providing for an increase for judicial administration expenses and judicial salaries in considering the appropriation of such funds."

MONTFORD
DICKSON
PARKER
LUCIO
GLASGOW

By unanimous consent, the amendment was read and was adopted by a viva voce vote.

On motion of Senator Lucio and by unanimous consent, the caption was again amended to conform to the body of the bill as amended.

The bill as amended was finally passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 703 ON SECOND READING**

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 703, Relating to the fees charged in connection with collection of a dishonored check.

The bill was read second time.

Senator Brooks offered the following amendment to the bill:

Amend C.S.H.B. 703 by striking everything below the enacting clause and inserting in lieu thereof the following:

SECTION 1. Section 1, Chapter 617, Acts of the 68th Legislature, Regular Session, 1983 (Article 9022, Vernon's Texas Civil Statutes), is amended by amending Subsection (a) to read as follows:

(a) The holder of a check or its assignee, agent, representative, or any other person retained by the holder to seek collection of the face value of the dishonored check on return of the check to the holder following its dishonor by a payor may charge the drawer or endorser a reasonable processing fee, which shall not exceed \$25 [~~\$15~~]. A person may not charge a processing fee to a drawer or endorser under this subsection if the fee has been collected under Article 102.007(e) or Article 102.0071, Code of Criminal Procedure. If a processing fee has been collected under this subsection and the holder subsequently receives a fee collected under Article 102.007(e) or Article 102.0071, Code of Criminal Procedure, the holder shall immediately refund the fee previously collected from the drawer or endorser. Notwithstanding any other provision of law, a loan agreement made under Chapter 3 or 4, Title 79, Revised Statutes (Article 5069-1.01 et seq., Vernon's Texas Civil

Statutes), may provide that on return of a dishonored check given in payment under the agreement, the holder may charge the obligor under the agreement the processing fee authorized by this Act, and the fee may be added to the unpaid balance owed under the agreement, except that interest may not be charged on the fee during the term of the agreement.

SECTION 2. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by amending Article 102.007, Subsection (e), adding a new Subsection (f), and adding Article 102.0071 to read as follows:

(e) In addition to the collection fee specified in Subsection (c) of this article, the county attorney, district attorney or criminal district attorney may collect the fee authorized by Art. 9022, Vernon's Annotated Texas Statutes, for the benefit of the holder of a check or its assignee, agent, representative, or any other person retained by the holder to seek collection of the check.

(f) Fees collected under Subsection (c) of this article shall be deposited in the county treasury in a special fund to be administered by the county attorney, district attorney, or criminal district attorney. Expenditures from this fund shall be at the sole discretion of the attorney and may be used only to defray the salaries and expenses of the prosecutor's office, but in no event may the county attorney, district attorney, or criminal district attorney supplement his or her own salary from this fund.

Art. 102.0071. JUSTICE COURT DISHONORED CHECK. On conviction in justice court of an offense under Section 32.41, Penal Code, or an offense under Section 31.03 or 31.04, Penal Code, in which it is shown that the defendant committed the offense by issuing or passing a check that was subsequently dishonored, the court may collect from the defendant and pay to the holder of the check the fee permitted by Article 9022, Vernon's Texas Civil Statutes).

SECTION 3. This Act takes effect September 1, 1991, and applies only to a check issued on or after that date.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Brooks and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

RECORD OF VOTE

Senator Johnson asked to be recorded as voting "Nay" on the passage of the bill to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 703 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.H.B. 703 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Johnson.

Absent-excused: Henderson.

The bill was read third time and was passed by a viva voce vote.

RECORD OF VOTE

Senator Johnson asked to be recorded as voting "Nay" on the final passage of the bill.

**COMMITTEE SUBSTITUTE
HOUSE BILL 154 ON SECOND READING**

On motion of Senator Sims and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 154, Relating to immunity from civil liability for certain persons responsible for or acting in furtherance of programs in which county inmates or juvenile or adult probationers are required to perform manual labor or to perform community service.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 154 ON THIRD READING**

Senator Sims moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **C.S.H.B. 154** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Johnson.

Absent-excused: Henderson.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 582 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 582, Relating to the operation of authorized emergency vehicles.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 582 ON THIRD READING**

Senator Ellis moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **C.S.H.B. 582** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Henderson.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2056 ON SECOND READING

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2056, Relating to the investigation and the inspection of conditions relating to water quality in certain watersheds by the Tarrant County Water Control and Improvement District Number One.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2056 ON THIRD READING

Senator Moncrief moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 2056** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Henderson.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

(Senator Rosson in Chair)

MESSAGE FROM THE HOUSE

House Chamber
May 22, 1991

HONORABLE BOB BULLOCK
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 2486, Relating to the time allowed for execution of a judgment.

S.J.R. 11, Proposing a constitutional amendment authorizing the commissioner of the General Land Office to issue patents for certain public free school fund land held in good faith under color of title for at least 50 years.

S.J.R. 39, Proposing a constitutional amendment to exempt from property taxes certain property in an enterprise zone.

Pursuant to the provisions of **S.C.R. 149**, **S.B. 333** was returned to the House for further consideration. The House reconsidered the vote by which it finally passed **S.B. 333**, amended and again finally passed **S.B. 333**.

The House reconsidered the vote by which it refused to concur in Senate amendments to **H.B. 1050**. The House discharged the conferees on **H.B. 1050**, and then concurred in Senate amendments to **H.B. 1050** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 378** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 553** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1431** by a non-record vote.

The House has concurred in Senate amendments to H.B. 1979 by a non-record vote.

The House concurred in Senate amendments to H.B. 220 by record vote of 133 Ayes, 0 Noes, 1 Present-not voting.

The House concurred in Senate amendments to H.B. 2263 by record vote of 94 Ayes, 43 Noes, 1 Present-not voting.

The House has granted the request of the Senate for the appointment of a Conference Committee on S.B. 314: Von Dohlen, Chair; Russell, Ogden, Cook, Tallas.

The House has granted the request of the Senate for the appointment of a Conference Committee on S.B. 1135: Watkins, Chair; B. Hunter, Kubiak, Hilbert, Holzhauser.

The House has refused to concur in Senate amendments to H.B. 1664 and has requested the appointment of a Conference Committee to consider the differences between the two Houses. The following have been appointed on the part of the House: Stiles, Chair; Hightower, Chisum, Place, Telford.

Respectfully submitted,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE BILL 617 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 617, Relating to the regulation of telephone solicitation; providing civil and criminal penalties.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1

Amend S.B. 617, SECTION 1, by deleting Subsection (a) of Article 2 and substituting the following:

(a) This chapter does not apply to:

(1) a person offering or selling a security that has been qualified for sale under Section 7, The Securities Act (Article 581-7, Vernon's Texas Civil Statutes), or that is subject to an exemption under Section 5 or 6 of that Act;

(2) a publicly traded corporation registered with the Securities and Exchange Commission or the State Securities Board or a subsidiary or agent of the corporation;

(3) a person licensed under the Insurance Code, if the solicited transaction is governed by the Insurance Code;

(4) a person soliciting the sale of a subscription to:

(A) a daily or weekly newspaper of general circulation;

(B) a magazine or other periodical of general circulation; or

(C) a cable television service;

(5) a supervised financial institution or parent, subsidiary, or affiliate of a supervised financial institution;

(6) a person or affiliate of a person whose business is regulated by the Public Utility Commission of Texas;

(7) an educational institution or organization or a nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986;

(8) a sale in which the purchaser is a business that intends to:

(A) resell the item purchased; or

(B) use the item purchased in a recycling, reuse, remanufacturing, or manufacturing process;

(9) a person soliciting the sale of food;

(10) a person who periodically issues and delivers catalogs to potential purchasers if the catalog:

(A) includes a written description or illustration and the sales price of each item offered for sale;

(B) includes at least 24 full pages of written material or illustrations;

(C) is distributed in more than one state; and

(D) has an annual circulation of not less than 250,000 customers;

(11) the solicitation of contracts for the maintenance or repair of items previously purchased from the person making the solicitation or on whose behalf the solicitation is made;

(12) a person soliciting:

(A) without intent to complete or obtain provisional acceptance of a sale during the telephone solicitation; and

(B) who does not make the major sales presentation during the telephone solicitation but arranges for the major sales presentation to be made at a later face-to-face meeting between the salesperson and the purchaser, but this exemption does not apply in cases where the person, directly following a telephone solicitation, causes an individual to go to the prospective purchaser to collect payment for the purchase or to deliver any item purchased;

(13) a person subject to the control or licensing regulations of the Federal Communications Commission;

(14) a person selling:

(A) a contractual plan regulated by the Federal Trade Commission trade regulation on use of negative option plans by sellers in commerce under Title 16 Code of Federal Regulations Part 425; or

(B) an arrangement under which the seller periodically ships merchandise to a consumer who has consented in advance to receive such merchandise on a periodic basis;

(15) a telephone marketing service company:

(A) which provides telemarketing sales services under contract to sellers;

(B) which has been operating continuously for at least five years under the same business name; and

(C) in which at least 75 percent of the company's contracts are performed on behalf of persons exempt under this section;

(16) a person soliciting business from a former or current customer if the person has operated under the exact same business name for at least two years or a person who engages in commercial telephone solicitations where the solicitation is an isolated transaction and not done in the course of a pattern of repeated transactions of a like nature;

(17) a person who has been operating a retail establishment under the same name as that used in connection with its telemarketing operations for at least

two years where consumer goods are displayed and offered for sale on a continuing basis and a majority of the seller's business involves the buyer obtaining services or products at the seller's retail location; or

(18) a person soliciting a transaction regulated by the Commodity Futures Trading Commission if the person is registered or temporarily licensed for this activity with the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. Section 1 et seq.) and the registration or license has not expired or been suspended or revoked.

The amendment was read and was adopted by a viva voce vote.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 2

Amend S.B. 617 as follows:

In SECTION 1, Article 6, delete "\$50" and insert "\$200".

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Lucio and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

SENATE BILL 617 ON THIRD READING

Senator Lucio moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that S.B. 617 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Henderson.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 289 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 289, Relating to the expulsion of public school students for carrying knives.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 289 ON THIRD READING

Senator Brown moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that H.B. 289 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Henderson.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1083 ON SECOND READING

On motion of Senator Johnson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1083, Relating to the creation and operation of the Texas Child-Care Facility Liability Pool.

The bill was read second time.

Senator Brooks offered the following amendment to the bill:

Amend **H.B. 1083** by adding SECTION 2 to read as follows, and renumbering all other sections accordingly:

SECTION 2. Section 1, Chapter 797, Acts of the 61st Legislature, Regular Session, 1969 (Article 6252-19a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. The State Departments or Agencies who own and operate motor vehicles, aircraft and motorboats or watercraft of all types and sizes shall have the authority to insure their officers and employees from liability arising out of the use, operation and maintenance of such automobiles, trucks, tractors, power equipment, aircraft and motorboats or watercraft used or which may be used in the operation of such Department or Agency. Such insurance shall be provided by the purchase of a policy or policies for that purpose from some liability insurance company or companies authorized to transact business in the State of Texas. All liability insurance so purchased shall be provided on a policy form or forms approved by the State Board of Insurance as to form and by the Attorney General as to liability. The State Departments and Agencies who receive federal grant funds for a foster grandparent program shall also have the authority to expend those funds to insure the person and property of those foster grandparents as required by the grant. The State Departments and Agencies that operate integrated day-care programs that serve children with mental illness, children with developmental disabilities, or children who participate in early childhood intervention programs, as well as other children, may purchase insurance to cover liability arising from the operation of the integrated day-care program.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Johnson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1083 ON THIRD READING

Senator Johnson moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 1083** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Henderson.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1188 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1188, Relating to the offenses of aggravated and deadly assault on an employee of a county, municipal, or private jail, an employee of the institutional division of the Texas Department of Criminal Justice, or a member of the Texas Board of Criminal Justice.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1188 ON THIRD READING

Senator Brown moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 1188** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Henderson.

The bill was read third time and was passed by a viva voce vote.

MOTION TO PLACE**HOUSE BILL 1630 ON SECOND READING**

Senator Barrientos moved to suspend the regular order of business to consider **H.B. 1630** on its second reading and passage to third reading.

H.B. 1630, relating to the creation and administration of a tax-exempt money market mutual fund for current and retired state employees, statewide elected public officers, and members of the legislature.

On motion of Senator Barrientos and by unanimous consent, the motion to suspend the regular order of business was withdrawn.

SENATE BILL 1116 ON SECOND READING

Senator Brooks asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

S.B. 1116, Relating to the payment of certain laborers, workers, and mechanics under public works contracts.

There was objection.

Senator Brooks then moved to suspend the regular order of business and take up **S.B. 1116** for consideration at this time.

The motion prevailed by the following vote: Yeas 23, Nays 5.

Yeas: Barrientos, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Johnson, Lucio, Lyon, Moncrief, Montford, Parker, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Armbrister, Harris of Tarrant, Krier, Leedom, Ratliff.

Absent: Bivins, Harris of Dallas.

Absent-excused: Henderson.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1116 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that S.B. 1116 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 23, Nays 5.

Yeas: Barrientos, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Johnson, Lucio, Lyon, Moncrief, Montford, Parker, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Armbrister, Harris of Tarrant, Krier, Leedom, Ratliff.

Absent: Bivins, Harris of Dallas.

Absent-excused: Henderson.

The bill was read third time and was passed by a viva voce vote.

RECORD OF VOTES

Senators Armbrister, Harris of Tarrant, Krier, Leedom and Ratliff asked to be recorded as voting "Nay" on the final passage of the bill.

HOUSE BILL 1630 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1630, Relating to the creation and administration of a tax-exempt money market mutual fund for current and retired state employees, statewide elected public officers, and members of the legislature.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1630 ON THIRD READING

Senator Barrientos moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that H.B. 1630 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Henderson.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL AND RESOLUTION ON FIRST READING

The following bill and resolution received from the House were read the first time and referred to the Committee indicated:

H.B. 2658, To Committee on Intergovernmental Relations.

H.J.R. 114, To Committee on Intergovernmental Relations.

**NOTICE OF SESSION TO HOLD
LOCAL AND UNCONTESTED BILLS CALENDAR**

Senator Haley announced that a Local and Uncontested Bills Calendar had been placed on the Members' desks and gave notice that a Local and Uncontested Bills Calendar would be held at 8:00 a.m. tomorrow and that all bills would be considered on second reading in the order in which they are listed.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Sims and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Natural Resources might consider the following bills today:

S.B. 1617
H.B. 2653
H.B. 451
H.B. 2831
H.B. 1826
H.B. 1107

SENATE RULE 11.11 SUSPENDED

On motion of Senator Carriker and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on State Affairs might consider the following bills tomorrow:

H.B. 89
H.B. 150
H.B. 2378
H.B. 2430
S.B. 1618
H.B. 2154
H.B. 1985
H.B. 879
H.B. 2066
H.C.R. 160

SENATE RULE 11.11 SUSPENDED

On motion of Senator Whitmire and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Intergovernmental Relations might consider the following bills tomorrow:

H.B. 595
H.B. 985
H.J.R. 114
H.B. 2658

SENATE RULE 11.11 SUSPENDED

On motion of Senator Dickson and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Economic Development might consider H.B. 2497 today.

NOTICE OF CONSIDERATION OF NOMINATIONS

Senator Barrientos gave notice that he would tomorrow at the conclusion of Morning Call submit to the Senate for consideration nominations to agencies, boards and commissions of the State.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Parker and by unanimous consent, Senate Rule 11.11 was suspended in order that the Subcommittee on Insurance might consider H.B. 615 today.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Parker and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Education might consider the following bills today:

H.B. 1143
H.B. 1314
H.B. 1413
H.B. 1800

SENATE RULE 11.11 SUSPENDED

On motion of Senator Lyon and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Criminal Justice might consider **H.B. 433** tomorrow.

RECESS

On motion of Senator Brooks, the Senate at 3:51 p.m. took recess until 8:00 a.m. tomorrow.

SEVENTY-THIRD DAY

(Continued)

(Thursday, May 23, 1991)

AFTER RECESS

The Senate met at 8:00 a.m. and was called to order by Senator Haley.

SENATOR ANNOUNCED PRESENT

Senator Henderson, who had previously been recorded as "Absent-excused," was announced "Present."

REPORT OF STANDING COMMITTEE

By unanimous consent, Senator Dickson submitted the following report for the Committee on Economic Development:

H.B. 2497
H.B. 2066
C.S.H.B. 2

LOCAL AND UNCONTESTED BILLS CALENDAR

The Presiding Officer (Senator Haley in Chair) announced that the time had arrived for consideration of the Local and Uncontested Bills Calendar.

Pursuant to Senate Rule 9.03(d), the following bills were laid before the Senate, read second time, amended where applicable, passed to engrossment/third reading, read third time and passed: (Vote on Constitutional Three-Day Rule and final passage indicated after the caption of each bill.)

C.S.S.B. 447 (Rosson) Relating to eligibility for workers' compensation benefits based on certain injuries incurred by peace officers. (31-0) (31-0)

S.B. 1549 (Turner) Relating to the acquisition, construction, improvement, and financing of cable television systems and facilities by certain municipalities. (31-0) (31-0)

S.B. 1614 (Armbrister, on behalf of Haley) Relating to the State Preservation Board. (31-0) (31-0)